

MEETING
STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
INTERAGENCY WORKING GROUP ON
ENVIRONMENTAL JUSTICE

CAL/EPA HEADQUARTERS
JOE SERNA, JR., BUILDING
1001 I STREET
SECOND FLOOR
COASTAL HEARING ROOM
SACRAMENTO, CALIFORNIA

TUESDAY, OCTOBER 25, 2005

10:25 A.M.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

INTERAGENCY WORKING GROUP (IWG):

Dr. Alan C. Lloyd, IWG Chairperson, California Environmental Protection Agency Secretary

Ms. Rosario Marin, Chair, Integrated Waste Management Board

Ms. Jan Boel, Chief Deputy, Office of Planning and Research

Mr. Val Siebal, Chief Deputy, Office of Environmental Health Hazard Assessment

Mr. Leonard Robinson, Acting Director, Department of Toxic Substances Control

Dr. Joan Denton, Director, Office of Environmental Health Hazard Assessment

Ms. Lynn Terry, Deputy Executive Officer, Air Resources Board (Alternate for Catherine Witherspoon)

Mr. Paul Gosselin, Chief Deputy Director, Department of Pesticide Regulations (Alternate for DPR Director, Mary Ann Warmerdam)

Mr. Pete Silva, Vice-Chair, State Water Resources Control Board

Mr. Mark Leary, Executive Director, CIWMB (Alternate for CIWMB Chair, Rosario Marin)

Ms. Marilee Hanson, Senior Staff Council, Department of Toxic Substances Control

Dr. Shankar Prasad, Deputy Secretary, California Environmental Protection Agency

Ms. Malinda Dumisani, Special Assistant for Environmental Justice, California Environmental Protection Agency

Mr. Adrian Perez, Chief of Office of Employee Assistance, SWRCB (Alternate for Pete Silva)

ALSO PRESENT

Dr. Joe Lyou
Executive Director, California Environmental Rights Alliance

Mr. Dave Arrieta
Principal, DNA Associates

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APPEARANCES

ALSO PRESENT - continued

Mr. Jose T. Bravo
Executive Director, Just Transition Alliance

Ms. Penny Newman
Executive Director, Center for Community Action and Environmental Justice

Ms. Diane Takvorian
Executive Director, Environmental Health Coalition

Ms. Caren Trgovcich
Division Chief, Mitigation & Cleanup Operations, DTSC

Mr. Don Johnson
Assistant Secretary, CUPAs & Emergency Response, Cal/EPA

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1 PROCEEDINGS

2 CAL/EPA SECRETARY LLOYD: Good morning.

3 I'm Alan Lloyd, Deputy of Cal/EPA and Chair of the
4 Environmental Justice Interagency Working Group.

5 People who are speaking, could they also speak
6 into the mic, just to, to recognize that people can't record
7 unless you actually speak into the microphone.

8 So I'm happy to be here today to share and discuss
9 the progress of Cal/EPA's Environmental Justice EJ Action
10 Plan. And before beginning the meeting I'd like to ask my
11 colleagues to introduce themselves before we start the
12 meeting, so I'd like to go to the Chair of Integrated Waste
13 Management, Rosario Marin.

14 CIWMB CHAIRPERSON MARIN: Thank you, Dr. Lloyd.
15 I'm Rosario Marin, Chair of the Integrated Waste Management
16 Board, and I'm delighted to be here. This is my second time
17 around.

18 OPR CHIEF DEPUTY DIRECTOR BOEL: I'm Jan Boel, I'm the
19 Chief Deputy of the Office of Planning and Research, and
20 I've been here to one other meeting.

21 OEHHA CHIEF DEPUTY DIRECTOR SIEBAL: Good morning,
22 everyone. I'm Val Siebal. I'm the Chief Deputy from OEHA,
23 and Dr. Denton will be coming back in later this morning, I
24 think.

25 DTSC ACTING DIRECTOR ROBINSON: I'm Leonard

1 Robinson, Acting Director for the Department of Toxic
2 Substances Control. This is my second meeting. My first
3 meeting I was Chief Deputy Director. This is my second
4 meeting. This is my first meeting as Acting Director.

5 ARB DEPUTY EXECUTIVE OFFICER TERRY: Lynn Terry, Air
6 Resources Board, Deputy Executive Officer, sitting in for
7 Catherine Witherspoon.

8 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Paul Gosselin,
9 Chief Deputy Director with the Department of Pesticide
10 Regulation, sitting in for Director Marianne Warmerdam, who
11 will be here in a little bit.

12 SWRCB MEMBER SILVA: Good morning. Pete
13 Silva, Vice-Chair of the State Water Resources Control
14 Board. And actually, I think I've been to most of these
15 meetings, but I'm announcing today is my last meeting. I've
16 accepted another offer with somebody else, so this will be
17 my last, my last meeting. Thank you.

18 DTSC COUNSEL HANSON: I'm Marilee Hanson, Senior
19 Staff Counsel with Department of Toxic Substances Control,
20 and I'm just providing legal counsel today to this body.

21 CAL/EPA DEPUTY SECRETARY PRASAD: I'm Shankar Prasad,
22 Deputy Secretary, Cal/EPA.

23 CAL/EPA SECRETARY LLOYD: Again, thank you
24 very much, and thank you for attending.

25 Maybe -- we've got a limited number of people

1 here, maybe we can also start off getting people to
2 introduce themselves as we go around the --

3 MR. LYOU: My name is Joe Lyou, I'm the Executive
4 Director of the Environmental Rights Alliance.

5 MS. PACKARD: Rubia Packard, with the Integrated
6 Waste Management Board.

7 MR. MARKSON: Jim Marxen, Department of Toxics.

8 MR. SMITH: Dimitri Smith, Integrated Waste
9 Management Board.

10 MR. BISSINGER: Eric Bissinger, Waste Management
11 Board, Office of Local Assistance.

12 MR. PHELPS: John Phelps, Office of Environmental
13 Health Hazard Assessment.

14 MR. BOURNE: Greg Bourne, Center For A
15 Collaborative Policy.

16 MR. ARIETTA: Dave Arietta, DNA Associates, one of
17 the EJ Advisory Committee Members.

18 MS. LAMB: Mary Lamb, with the U.S. Air Force,
19 Regional Environmental Office in San Francisco.

20 MS. FEDERIGHI: Veda Federighi, Department of
21 Pesticide Regulations.

22 MS. SALLEE: Joan Sallee, Department of Pesticide
23 Regulations.

24 MS. NEWMAN: Penny Newman, Executive Director with
25 the Center for Community Action and Environmental Justice,

1 and an Alternate on CCAP.

2 MS. TAKVORIAN: Diane Takvorian, with the
3 Environmental Health Coalition in San Diego and Tijuana, and
4 also on the CEJAC.

5 MR. PEREZ: Adrian Perez, State Water Resources
6 Control Board.

7 MS. MURCHISON: Linda Murchison, California Air
8 Resources Board.

9 MS. BUCKLEY: Karen Buckley, ARB.

10 MR. SHIMP: Dale Shimp, ARB.

11 MR. SEGAWA: Randy Segawa, Department of
12 Pesticide Regulations.

13 MR. LYOU: Joe Lyou, California Environmental
14 Rights Alliance, and to the great relief of Diane Takvorian,
15 the Co-Chair of the Advisory Committee on Environmental
16 Justice.

17 MS. PINEL: Renee Pinel, Western Plant Health
18 Association.

19 CAL/EPA SECRETARY LLOYD: Thank you very
20 much. I'd like to -- oh, one, one more person arrived.

21 MR. LLOYD: Mike Lloyd.

22 CAL/EPA SECRETARY LLOYD: Thank you.

23 Again, welcome to those members of the EJ Advisory
24 Group here today, so thank you very much for joining us.

25 I'd also like to thank the outgoing CEJAC Co-

1 Chairs, Dee Allen and Diane Takvorian, for their service.
2 And also welcome the new Chairs, Joe Lyou and Barbara Lee.
3 Joe's over there. Welcome, Joe. Congratulations. I guess
4 Barbara's not here.

5 Also, I'd like to recognize, maybe at this point
6 recognize a resolution that we have for Diane for her
7 service, so maybe we can take a moment while we do that and
8 read the resolution, and then present that to you.

9 So this is what it says.

10 "Whereas, Ms. Diane Takvorian
11 has served the people of California with
12 remarkable dedication and spirited good-
13 will" -- probably a lot embedded in
14 there -- "as a member of the Cal/EPA
15 Environmental Justice Advisory
16 Committee, CEJAC, since December 2001;

17 "Whereas, ms. Takvorian has
18 contributed freely of her time, energy,
19 knowledge and abilities as CEJAC co-
20 chair for four years until October 2005,
21 facilitating over 15 CEJAC meetings and
22 providing a sense of continuity which
23 has enabled Cal/EPA to make steady
24 progress towards environmental justice
25 for all Californians;

1 "Whereas, Diane directly
2 assisted in the development of a
3 comprehensive and action-oriented report
4 in October of 2002, titled 'Final
5 Recommendations Report on Environmental
6 Justice to the Cal/EPA Interagency
7 Working Group on Environmental Justice,"
8 that's this, this group, the IWG;

9 "Whereas, Diane has been an
10 effective advocate for California
11 residents and communities, particularly
12 within the San Diego-Tijuana region, as
13 a founder, co-founder and executive
14 director of the Environmental Health
15 Coalition for more than 25 years;

16 "Whereas, Diane passionately
17 and successfully advocated in 1986 for
18 the passage of the State's first
19 community right-to-know law, requiring
20 manufactured product containing
21 chemicals known to cause either cancer
22 or reproductive harm to warn the public
23 if the chemical poses a significant
24 risk;

25 "Whereas, Diane has been a highly

1 motivated, committed, and spirited
2 representative of a community health
3 organization who has consistently raised
4 a strong voice for environmental justice
5 on behalf of California;

6 "Whereas, Diane believes that hard
7 work must be balanced with time spent at
8 home with her family and time to learn
9 new things on sabbatical to replenish
10 her energy and nurture her soul;

11 "Now, Therefore, Be It Resolved,
12 that California, the EPA Interagency
13 Working Group on Environmental Justice
14 commends Diane Takvorian for her
15 outstanding contributions and
16 distinguished service as CEJAC Co-Chair.

17 "Be It Further Resolved, that the
18 Interagency Working Group thanks Diane
19 Takvorian for her democratic spirit, her
20 good deeds, her kind soul, and wishes
21 her a productive and successful future.

22 "Executed on this 25th day of
23 October, 2005, in Sacramento,
24 California."

25 And this is signed by all, all the Working Group

1 Members. So Diane, we'd really like to thank you so much
2 for your outstanding service and recognize you're just
3 transitioning. You will still be here to help us, so thank
4 you. So we'd like to just present you with a plaque.

5 (Applause.)

6 MS. TAKVORIAN: Thank you. I really appreciate
7 it. Okay, thank you very, very much. Thanks to all of you.
8 Obviously, you'll continue this work without me. So I want
9 you to go do your job and get to work. Thank you all very,
10 very much. I really appreciate it. I think it's the only
11 resolution I've ever had that has "spirit" in it three
12 times, so I appreciate that.

13 (Laughter.)

14 MS. TAKVORIAN: Given that probably it could have
15 other words in it. But I, I very much appreciate the
16 goodwill that goes with that, and thank you all for your
17 good work. Thank you.

18 (Applause.)

19 CAL/EPA SECRETARY LLOYD: Again, I want to
20 reiterate again the importance that the Interagency Working
21 Group has for the efforts of, of CEJAC and continue to be a,
22 a fundamental piece of what we do here.

23 Again, I'd like to welcome those in the audience
24 about being here, but also those who have joined in person
25 and also those on the, on the Webcast today. So we, we are

1 being Webcast, I guess, so we will have people maybe calling
2 in and certainly monitoring.

3 One of the things I'd just like to reflect on.
4 Since my days as Chair of the ARB I've continued a strong
5 commitment to the, achieving the vision of environmental
6 justice, recognizing that as we've moved ahead it's a very
7 tough issue and a very challenging issue, but I remain very
8 very committed to that, and I want to assure you that the
9 administration is fully committed to the goals that, that we
10 continue to, to address.

11 We've made progress towards the aim of, of the
12 environmental justice, but obviously we still have a, a long
13 way to go. So the more we, the more we recognize our
14 accomplishments we also recognize the many challenges. And
15 as Cal/EPA, we obviously have to look at this in a multi-
16 dimensional, multi-media effort, too.

17 The other piece we see is that still, in spite of
18 the progress, many Californians are subjected to
19 disproportionate amounts of environmental aspects and
20 exposure, and since I'm sitting next to the Chairwoman here
21 of Integrated Waste Management, Rosario Marin, one of my
22 first experiences was going down to her city, Huntington
23 Park, and seeing first-hand some of the issues that surround
24 that community. And that, that continued to make a major
25 impact on me as I've gone out to the communities. But also,

1 we are here to do something about that, and I think I am so
2 pleased that again, Governor Davis, and now Governor
3 Schwarzenegger has ramped those efforts to make sure that,
4 in fact, we address those issues.

5 And I was reminded earlier today by the cabinet
6 secretary when they're saying that, that the governor
7 recognized the, the impact of farm work in the summer, and
8 for the first time brought forward an action to in fact
9 protect those workers. Similarly, I think the governor is
10 really trying to do things that would look at the ports and
11 goods, to address the top issues. And it's all very well to
12 talk about stuff, but it's very tough to go out. And so
13 when we -- trying to address those issues, clearly we can,
14 everybody, the idea that we can do better. But the fact
15 that we're addressing those issues and we've continued to
16 ask for the, for the cooperation, that's where the CEJAC
17 committee is very, very important for us as we move ahead,
18 in terms of the Environmental Justice Action Plan.

19 I think before I proceed I'd like to ask my
20 colleagues if we have any, any comments at the beginning.
21 Anything, comments on the agenda, et cetera.

22 No? All right. Thank you.

23 Okay. Then, since we have none, we'll just go
24 right forward here to the presentation from the CEJAC. I
25 guess we'll ask the new Co-Chair to -- is this your first

1 deed as the Co-Chair, Joe?

2 CEJAC CO-CHAIR LYOU: Yes, it is.

3 CAL/EPA SECRETARY LLOYD: Great. Great.

4 Well, we look forward to have, have you here and work with
5 you, and look forward to joining us. And also, we have Dave
6 Arrieta also working with you today on that, so.

7 CEJAC CO-CHAIR LYOU: Right. We're going to sort
8 of divide up the, the presentation. And we can just start
9 by going, going to the next slide.

10 Our -- sorry. You also have a copy of the, the
11 slides in your hand-out.

12 Our Advisory Committee has, has met a couple of
13 times since the last time the Interagency Working Group has,
14 has convened, and, and we have passed several resolutions
15 making recommendations to this group, and we will now seek
16 your input and approval of our recommendations.

17 Today I'm going to go through, we're going to go
18 through five different items, the first being the role of
19 the advisory committee. And it was quite clear when we,
20 when we first got started with our advisory committee that,
21 that our role was to come up with recommendations, which we
22 did in September of 2003. That clarity was muddled a bit
23 after those recommendations were, were finished, as to what
24 our role should be. We have revisited this issue, and have
25 developed as an advisory committee what we think our role

1 should be, and we'll talk about that.

2 The second item is that our advisory committee, in
3 terms of recommendations for pilot project goals as part of
4 the Environmental Justice Action Plan, which was developed
5 in part in response to our recommendations, there were six
6 pilot projects that now have, have come out of this process,
7 and our advisory committee has developed a list of goals
8 that we would like this committee, this working group, to
9 review and approve. And Dave will, will talk about those.
10 Dave also will talk about his impressions and sort of the,
11 the feeling of the advisory committee members about the
12 status of the pilot projects, and he'll spend a little bit
13 of time on that.

14 And then we'll, we'll go to the next thing, which
15 will be an update on the status of the advisory committee
16 recommendations on public participation. And we have
17 engaged in a process around the recommendations in our, in
18 our report with regard to public participation, and I was
19 just going to spend a bit of time about saying where we are
20 with that process and, and where we hope to be.

21 And then, finally, we're going to talk about an
22 issue that's come up in, in the context of all this work
23 that's been happening at Cal/EPA, and at, at other agencies
24 with regard to environmental justice issues in California,
25 and that has to do with capacity building and funding issues

1 confronting community groups who want to participate in this
2 process.

3 So if we can move on to the next slide.

4 The first thing is the role of the advisory
5 committee. I'm going to start by talking about the
6 statutory requirement and then talk about our by-laws, and
7 then our proposal.

8 The, the statute says that our advisory committee
9 shall assist your working group by providing recommendations
10 and information to and serving as a resource for the working
11 group. I think there's broad consensus among all the
12 stakeholders, and our advisory committee is made up of a
13 very diverse group of stakeholders, that this is a, an
14 appropriate and, and necessary role for, for our advisory
15 committee.

16 In our by-laws we expanded upon this a little bit.
17 If we can go to the next slide.

18 Our by-laws say that the EJ Advisory Committee's
19 mission is to provide information, advice and
20 recommendations to the Secretary of Cal/EPA and the
21 Interagency Working Group on Environmental Justice that will
22 help to improve the direction and implementation of
23 environmental justice programs and initiatives at Cal/EPA.
24 These by-laws were adopted by our advisory committee very
25 early on in our process, when we started back in 2001. And

1 I think everyone still agrees that this should be the
2 mission.

3 Now, on the next slide we talk about that this is
4 what we have approved, and you have a copy of this in your
5 package, too, in terms of what our role should be going into
6 the future. And it's a little long, but in your package
7 it's, it's basically the last paragraph in terms of the
8 specific role of the advisory committee. And let me just
9 read it to you, if you can go back to that.

10 CEJAC, which is sort of an abomination of our, our
11 official title, which is the Advisory Committee on
12 Environmental Justice, but that stands for California
13 Environmental Justice Advisory Committee, will serve as a
14 forum to gather public input and enhance public
15 participation in Cal/EPA's environmental justice program, in
16 particular with stakeholders not historically represented.
17 The CEJAC will not serve as an appellate body of Cal/EPA.
18 The CEJAC will provide independent review, comments and
19 recommendations to the Cal/EPA Secretary and the IWG
20 regarding the following key activities, but not limited to,
21 and then there's about, I don't know, six or, six different
22 things, and we'll get into those.

23 In the context of this, please keep in mind that
24 we're asking for your consideration, review and approval of
25 this, these -- this role for our advisory committee, and if

1 we get that we, I believe the intent is to incorporate this
2 into our by-laws through an amendment.

3 So what we wanted to do was provide input and
4 recommendations on these items. Implementing and -- the
5 implementation and evaluation of Cal/EPA's EJ strategy and
6 EJ action plan consistent with our 2003 recommendations
7 report. The incorporation of risk reduction, pollution
8 prevention, and precautionary approach concepts into the
9 existing scientific and regulatory paradigm within Cal/EPA.
10 And the identification of obstacles and implementing CEJAC
11 recommendations and policy options to remove those obstacles
12 administratively and/or legislatively. Assistance in
13 enhancing participation of people of color, African-American
14 communities, Native American tribes, farm workers and low
15 income communities in Cal/EPA's decision-making processes.

16 Development -- the next slide, please.
17 Development of assessment tools and strategies to reduce
18 cumulative impact -- of cumulative exposures and impacts.
19 And finally, identifying financial and tactical resources to
20 assist EJ efforts consistent with state law.

21 So those are our recommendations in terms of what
22 our advisory committee's role should be in serving as a
23 resource for you and for, and for the secretary,
24 specifically. And we will, at the end of this, I think -- I
25 don't know if you want to take these up one at a time, or if

1 you want to just go through the whole presentation.

2 CIWMB CHAIRPERSON MARIN: I have a question.

3 CEJAC CO-CHAIR LYOU: Sure.

4 CIWMB CHAIRPERSON MARIN: On the role of the
5 advisory committee, on the recommendations of assistance in
6 enhancing participation of people of color.

7 CEJAC CO-CHAIR LYOU: Yes.

8 CIWMB CHAIRPERSON MARIN: African-American
9 communities, Native American tribes, farm workers and low-
10 income communities in Cal/EPA's decision-making process. To
11 be consistent, either people of color includes African-
12 Americans, and/or Hispanic, and/or Asian-Americans, and/or
13 other Americans. So we either include all of them and the
14 reason for color, or leave people of color and take out
15 that.

16 CEJAC CO-CHAIR LYOU: I am sure that the Advisory
17 Committee would -- we welcome -- any, any efforts you make
18 to clarify the language so that it is, it is not either
19 redundant or exclusive. I don't know how many of you have
20 actually experienced our advisory committee process, but
21 it's, it is not the, the easiest decision-making process.
22 So the language is negotiated, debated, and voted upon, and,
23 and this is where we ended up.

24 But I, I fully understand what you're saying, and
25 I'm sure we would --

1 CIWMB CHAIRPERSON MARIN: Well, I, I will tell
2 you this. I note the fact that farmworkers are there, and
3 also low-income communities. But there are many Hispanics
4 who are not farmworkers --

5 CEJAC CO-CHAIR LYOU: Yes.

6 CIWMB CHAIRPERSON MARIN: -- who may or may not
7 be from low-income communities, but they still should be
8 represented. And maybe that's, that includes people of
9 color.

10 CEJAC CO-CHAIR LYOU: Right.

11 CIWMB CHAIRPERSON MARIN: But wouldn't
12 automatically African-Americans be included in the --

13 CEJAC CO-CHAIR LYOU: I would agree. But it's not
14 where our, that's not -- I mean, when we got to the, the
15 motion and the vote, that's not where we were in terms of
16 language.

17 CIWMB CHAIRPERSON MARIN: Okay.

18 OPR CHIEF DEPUTY DIRECTOR BOEL: I have a, a question
19 concerning the same thing. This is indicated, in my copy,
20 at least, in red as a change, so I want to know what it said
21 before this.

22 CAL/EPA DEPUTY SECRETARY DR. PRASAD: You will actually
23 see the -- I mean, have our legal have actually taken a look
24 at it, and actually you will see the modified language that
25 the staff will be proposing in place of that whole language.

1 It will be using the language by the statute.

2 CEJAC CO-CHAIR LYOU: Yes.

3 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Replacing that whole
4 thing.

5 CEJAC CO-CHAIR LYOU: If memory serves correct, I
6 believe that, that Penny Newman initially brought the motion
7 on this item, and that was the original language was it,
8 Penny, or was this, is that what the strikeout version is?

9 MS. NEWMAN: I think the strikeout was the
10 original language.

11 CEJAC CO-CHAIR LYOU: Yes. And then we, we
12 discussed it and, and made some changes as a committee, and
13 voted and approved it.

14 OPR CHIEF DEPUTY DIRECTOR BOEL: But if you look at
15 just the strikeouts, that doesn't make sense. If you just
16 -- you mean previously it just said enhancing participation
17 of the Native-American tribes and other community groups --

18 CEJAC CO-CHAIR LYOU: No, I think that --

19 OPR CHIEF DEPUTY DIRECTOR BOEL: That's what it would
20 look like.

21 CEJAC CO-CHAIR LYOU: Yeah. Yeah, you have some
22 different iteration of it there.

23 OPR CHIEF DEPUTY DIRECTOR BOEL: So, I, I mean, it
24 wasn't just --

25 CEJAC CO-CHAIR LYOU: Yeah. The, the strikeouts

1 actually aren't, aren't necessarily consistent with what was
2 initially proposed.

3 OPR CHIEF DEPUTY DIRECTOR BOEL: So we don't know what
4 it used to say. We don't --

5 CAL/EPA DEPUTY SECRETARY DR. PRASAD: That was the version
6 that came up after the discussions. So you, if you want to
7 look at the --

8 OPR CHIEF DEPUTY DIRECTOR BOEL: I want to know what it
9 was before the -- I mean, what we used to have.

10 CAL/EPA DEPUTY SECRETARY DR. PRASAD: We will get that.

11 CEJAC CO-CHAIR LYOU: I'm not, I'm not sure, to
12 tell you the truth.

13 CIWMB CHAIRPERSON MARIN: Well, if I may,
14 exactly. Or, you know, if, if I may, you can either
15 Hispanic Americans or Latinos, and all Asian-Americans. And
16 leave everything else up there.

17 CEJAC CO-CHAIR LYOU: I think that --

18 CAL/EPA DEPUTY SECRETARY DR. PRASAD: However, a legal, as
19 -- actually we will put up the language has said that they
20 include all these sub-populations of --

21 CIWMB CHAIRPERSON MARIN: Well, they have a
22 recommendation.

23 CAL/EPA DEPUTY SECRETARY DR. PRASAD: This is the CEJAC's
24 recommendation, but when it comes, when we, when the CJ --
25 when the IWJ discusses it, we have a recommendation.

1 CIWMB CHAIRPERSON MARIN: Oh, thank you,
2 Doctor. Okay.

3 CALEPA SECRETARY LLOYD: I agree with
4 Chairwoman Marin that it is surprising that CEJAC, with all
5 the people represented there, would come up with this
6 definition.

7 CEJAC CO-CHAIR LYOU: Yeah. I, I would imagine
8 that if we took it back they would also recognize the, the
9 lack of, of -- of identifying all of the potential people of
10 color who, who may be covered by the intent of, of that
11 item.

12 CALEPA SECRETARY LLOYD: And that would
13 establish CEJAC isn't perfect. Why not proceed.

14 (Laughter.)

15 CEJAC CO-CHAIR LYOU: Okay. We can do that. I'm
16 going to at this point turn it over to Dave, who's going to
17 enjoy this, I'm sure. He's going to talk about our proposed
18 project goals for the pilot projects.

19 MR. ARRIETA: Good morning. My name is David
20 Arrieta. I'm with DNA Associates, and I'm one of the big
21 business representatives on the, on the CEJAC committee.
22 And I'm, I'm here pinch-hitting for Barbara Lee, who's the,
23 the new Co-Chair. She unfortunately couldn't be here and,
24 and really a lot of the, of the government types that are on
25 the committee are at a big conference down south and

1 couldn't be here.

2 So what, what I think is interesting is that, that
3 the committee would feel comfortable enough for the big
4 business, one of the big business members to come and give
5 the committee presentation. I, I think that reflects quite
6 a bit of, of how the committee has moved in a, in a
7 cooperative manner to try and deal with, with these issues
8 in a, in a positive, forward moving direction. So I think
9 it's, it's good that I'm here talking to you guys. That's
10 my personal opinion there.

11 What I, what I would like to do is could we move
12 to Slide 11. The, the -- after we made the presentation I
13 got some comments, feedback, and I think it, it works better
14 if we, if we do Slide 11 first. Eleven. You're at 13.
15 Okay.

16 And these, these are the general comments, and I,
17 I should preface it that the committee didn't take any
18 position, didn't evaluate the status of the projects as a
19 whole or individually. We receive presentations on, on
20 input from the agencies that are, that are involved in the
21 individual projects, and we get feedback from the committee
22 input. And in general, this is, these, these comments that
23 I have on this slide are Dave Arrieta's impression of what
24 the sense of the committee is. But it also reflects, I
25 think, the fact that the two, the two proposals really stem

1 from these general comments.

2 And in general, the, the feeling, the sense that I
3 get is that the committee feels the, the progress on the
4 pilot projects is, is too slow, and that the IWG ought to
5 look at ways to explore ways to get resources to expedite
6 the projects to move forward.

7 We have a recommendation on public participation,
8 because the committee feels that public participation needs
9 to be improved. We have recommendations on goals, because
10 the committee felt that the projects needed focus and
11 direction. And obviously, we hope that the recommendations
12 that that we propose here will give that input to improve
13 the public participation and to give the projects the focus
14 and direction that they need to move forward.

15 So that, that's the, the general comments. So now
16 if we could come back to slide nine.

17 Basically, the committee recommended some, some
18 goals for the, for the project, and, and these were
19 developed back in June, when we had our second or third
20 meeting of the year. And basically -- could we go to slide
21 nine. The, the committee had a couple of purposes for the,
22 for the projects, and one of them is to focus on the
23 critical environmental risks in the community. So it's a
24 community driven exercise on environmental risk, that the
25 focus of the, of the projects ought to be on more effective

1 methods of achieving environmental justice. And obviously,
2 the, the big underlying premise is focus on children's
3 health. And I think all the projects have as an underlying
4 premise a focus on children's health.

5 The, the next slide, please.

6 Specifically, the, the goals for, for each of the
7 pilots should be that the, that the pilots should be
8 community driven; that it should advance issues regarding
9 precautionary approach; advance the assessment and reduction
10 of disproportionate cumulative impacts on environmental
11 justice communities; have extensive public participation;
12 evaluate new policies for, to improve protection of public
13 health and the environment. And then, finally, to improve
14 the agency response to multi-media impacts. So those should
15 be the goals of, of the projects.

16 So now, if we could go to slide 12.

17 For the ARB pilot projects, the committee
18 recommended that the local advisory group be more formally
19 constituted and have a very formal structure that, that
20 would include 13 members, of which five would be local
21 residents of the community involved. And that the functions
22 should include advice on the, on the project boundaries;
23 comments on the project design and implementation; formal
24 proposals on elements in the, in the project that deal with
25 the project activities; evaluate pilot project progress;

1 work with, with the ARB on, on progress reports to the
2 community; and provide public comment opportunities for the,
3 for the pilot project. And I, I think when you look at the,
4 the two proposals, they reflect the committee's sense that
5 the projects need more focus and direction; that the
6 projects need more public community involvement; and, and
7 that the projects could use extended public participation,
8 or enhanced public participation.

9 So that, that's the two recommendations that, that
10 we have.

11 The, the goals of the committee say that, that we
12 ought to give you a little feedback on where the projects
13 stand, or at least that's how I read the goals. So I put
14 these next few slides in to, to try and, and give you a
15 sense of what the, the committee, my sense of what the
16 committee's feeling is on, on the, on the pilots themselves.
17 Like I said, again, we didn't discuss this, take a vote, or
18 any of those kinds of things, as far as the, the committee
19 itself is concerned. So, you know, there may be different
20 opinions that, that may be surfaced. But this is, this is
21 my sense of what the committee thinks these projects are all
22 about.

23 And I put the, the DPR project first because I
24 think it, it seems to be the most advanced of the projects,
25 a very established local advisory group and a technical

1 advisory group, and the whole focus has been to set, set up
2 a monitoring program in a rural agricultural community, and
3 that seems to have been done. There seems to be an approved
4 monitoring plan that the, that the project is moving
5 forward, and they're going to start monitoring in, in
6 January. The feedback from the stakeholders in that project
7 seem to be positive.

8 The next, the next project is, is the water
9 board's new river project. And again, that's a, a
10 children's health risk reduction project where in Calexico,
11 the new river comes in from, from Mexico and, and they have,
12 seem to have a, a well thought out plan that they're moving
13 forward with, and that they are now looking for ways to, to
14 generate funding sources to actually implement construction
15 of, of measures to reduce children's health risk.

16 So that, that seems to be moving forward. The
17 CEJAC is prepared to help the new river with its, with its
18 specific grant proposals when that happens, and, and we have
19 been working with them to help them identify potential
20 funding sources at, at the federal level and, and other
21 places. And the, the advisory committee will help them with
22 that effort when things move forward on, on specific grants
23 proposals.

24 Next.

25 The, the Klamath project is a public participation

1 capacity building project, and this project seems to be
2 moving slower than, than the others. We recognize that it,
3 that it's got size, complexity and remoteness issues that
4 make it, make it difficult, but we hope that those should
5 not be an excuse for progress. And so we're, we're hoping
6 that, that that effort, you know, moves forward with all
7 due, due speed on capacity building. And what, what the
8 project there is, is to get the differing communities
9 involved in this exercise, to be able to address their
10 issues within the complex processes that are going up in
11 the, in the Klamath, in the Klamath River process.

12 So I think it, it's a good project that, that's
13 going to generate some, some good information on capacity
14 building, and we hope that it, that it moves forward in all
15 due speed.

16 The, the ARB Wilmington Commerce and Mira Loma, I
17 call it a goods movement corridor project, which basically
18 tries to address neighborhood risk reductions in that
19 corridor moving from the ports all the way up to Mira Loma,
20 where, where containers and railroads and trucks all move,
21 move the goods that the state needs.

22 These projects are, are quite a bit behind
23 schedule. I understand that they're starting to, to gear up
24 to do more public participation. Obviously, the, the
25 communities involved were, were very concerned with this

1 public participation that they put forth the suggestion of a
2 more formalized local advisory group structure, which the EJ
3 advisory committee supported. So we will, hopefully we will
4 take action on, on those recommendations.

5 The, the next two, the next two projects are, are
6 the DTSC's West Oakland Forum project. And again, it's a
7 capacity building public participation project. And the
8 sense that I, that I get is that, that this project needs
9 more focus and direction. I understand that in the last
10 month or so, maybe six weeks, things have really improved in
11 this area, but I would say that, that this project and the
12 MET Lab project were the driving force for the goals
13 proposal that we, that we put forth. So, you know, these,
14 these two projects I think need a little more focus, need a
15 little more direction, and a whole lot of public
16 participation to get them on the right track.

17 And finally, we couldn't be without discussion of,
18 of Midway Village. I know that that issue is, is on the
19 agenda for you. And I, I put that the, that the residents
20 are very frustrated that nothing seems to be done to address
21 their, their issue. I would say that the advisory committee
22 is equally frustrated that, that the issue doesn't seem to
23 move forward. And the committee had recommended back in
24 February, I think that Midway Village be selected as a pilot
25 project. For a number of reasons, it was not. But that

1 doesn't mean that the, that the committee isn't very
2 interested and very -- trying to address the, those issues.
3 And in fact, the committee submitted a written letter to, to
4 the federal housing urban development agency to hopefully
5 stimulate some action to address the residents' concerns.

6 And I think the whole discussion on the, on this
7 issue was that we really need to think outside the box on
8 how to address the solutions for Midway Village. I think
9 you're going to have that on, on your agenda later on, so
10 hopefully some creative ideas are, are going to come out to
11 address Midway Village.

12 And with that, I'll turn it back to Joe. Unless
13 there's questions.

14 CALEPA SECRETARY LLOYD: Any comments
15 from the IWG on the comments on the pilot projects?

16 SWRCB MEMBER SILVA: Not, actually not to
17 be picky, but on, on your number -- I think it's slide
18 number ten, it just seems your -- some of those are not
19 stated as goals. You just need some wordsmithing, I think,
20 but, because if you notice, some say advance, improve, and
21 the rest don't really say -- for example, community driven,
22 maybe you could say ensure projects are --

23 MR. ARRIETA: This, this is my condensing of a
24 paragraph into a bullet, so it may not necessarily be
25 exactly the way it's written in the, in the proposal.

1 CEJAC CO-CHAIR LYOU: You should have a one pager
2 in your -- there's a --

3 MR. ARRIETA: There's a -- yeah, so this is
4 just --

5 SWRCB MEMBER SILVA: Okay.

6 CEJAC CO-CHAIR LYOU: It's not the actual
7 verbiage. It's just -- the one pager here, it's dated June
8 2nd. It says goals on it.

9 SWRCB MEMBER SILVA: Never mind.

10 MR. ARRIETA: But you also remember the discussion
11 on the other proposal, you know. The committee has its ways
12 of wordsmithing things.

13 SWRCB MEMBER SILVA: I think we did a
14 better job on the goals.

15 CEJAC CO-CHAIR LYOU: One last comment on, on
16 Midway Village. One of the members of our committee who has
17 been very outspoken about the Midway Village issue was
18 unable to attend today, but yesterday sent an e-mail to the
19 committee members and, and to Mr. Robinson, actually, who
20 has a card out, so maybe I'm, I'm interjecting before I
21 should. Okay.

22 Anyway, he, Michael Dorsey, who is the Chief of
23 the Hazardous Materials Division of San Diego County
24 Department of Environmental Health, his basic point was that
25 he wasn't criticizing DTSC in terms of what they've done in

1 Midway Village, but what he was seeking was that DTSC take
2 the lead in assisting the community in working with HUD to
3 evaluate options for possible relocation. And in doing
4 that, not, not in a way of, of, I think, of obligation,
5 legal obligation to do so, but just in a way as, as
6 providing a resource to the community.

7 And so I think we've had a disconnect a little
8 bit, and in between what's legally required and what DTSC
9 needs to do in terms of exposure pathways versus what the
10 community request is, in terms of providing some maybe extra
11 legal assistance.

12 And I was going to move on to the public
13 participation, but I think Mr. Robinson has --

14 DTSC ACTING DIRECTOR ROBINSON: Well, just a, a
15 comment about West Oakland Pilot Project. We had members of
16 the community that came in and testified before the CEJAC,
17 and a couple of words they said were we were focused, we are
18 engaging the community, we, we've moved light years in that
19 direction. And our next LAG meeting is November 7th, and,
20 you know, we, we expect a lot more of that. So I just
21 wanted to make that comment.

22 CEJAC CO-CHAIR LYOU: Yeah. I think, with that
23 project in particular, what we're seeing is, is the give and
24 take between community involvement being community driven,
25 versus having specific direction and moving forward in, in a

1 very linear laid out fashion. And, I mean, there is that
2 dynamic going on where we're seeking to have these projects
3 to be community driven, and that, that necessitates, I
4 think, being open to having your project take a step
5 backwards and really finding out what the community
6 request's and needs and concerns are.

7 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Your, one of the
8 comments you had about sort of the concern and slowness of
9 the pilot projects going forward, but also, in sort of the
10 same slide, the need to have all of us increase our public
11 participation and input from the local groups, and you're
12 smiling. You can kind of see sort of the, some of the, the
13 paradox that someone places. Often, on changing, you know,
14 sort of how all of us kind of conduct our business, wanting
15 to launch ahead, kind of relying on staff and professional
16 expertise, but then also -- and there's the big change,
17 about wanting to stop, pause, and get input from the
18 communities before we go forward. And you kind of
19 highlighted that.

20 What I wanted to get your sense is the balance on
21 that, in terms of these projects. But you also highlighted
22 the resource limitations. And from my vantage point, it
23 seemed like it, any delays in the projects is mostly for us
24 to try to cause ourselves to slow down, pause, and make sure
25 we get community input and not, it wasn't necessarily due to

1 resource limitations, per se. And just wanted to get your
2 thoughts elaborating on that.

3 MR. ARRIETA: I think it's been about a year
4 process, and there, it's been kind of a, a stop and go, and,
5 and the, the first go-round was the agencies came up with
6 here's a project proposal. It wasn't necessarily community
7 driven. Then you get feedback, we really don't know what
8 you're doing, where you're going, what the end product is,
9 what the, the end goal is. You need to get input from the,
10 from the community. And, and I think that the message here
11 is when these kinds of community or EJ projects are, get
12 developed, this up front public participation is probably
13 the most important thing, so that together, the agency and
14 the community develop the goals and the outcomes and, and
15 the, the game plan for how to get there. So that it's, it's
16 a, a joint effort to try and, and get the, the results that
17 everybody wants in the end.

18 You know, I, I'm not from the community, but I,
19 but I've participated in lots and lots of community driven
20 efforts, and, you know, early, early, early communication is
21 probably the most important thing.

22 CALEPA SECRETARY LLOYD: Lynn.

23 ARB DEPUTY EXECUTIVE OFFICER TERRY: Dr. Lloyd, just so
24 there's some clarity on, on where we stand on the, the
25 timing issues with the light projects. We did have initial

1 community meetings in each of the three areas, and we did
2 get very valuable written input from community groups, and
3 there was a long list of ideas. And so we were just to the
4 stage of scheduling the second LAG meetings in each
5 community to have that next step discussion about. Okay,
6 here's a long list. We have a pilot with a defined
7 timeframe. What are your priorities. We need to hear more
8 from you on priorities. And then they -- well, you came
9 along, and we were actually asked to not hold the next
10 meeting until that issue was resolved.

11 So that will -- hearing is this week, and in the
12 meantime, however, we have scheduled the next Wilmington LAG
13 meeting on November 7th, and we are very hopeful that the
14 community, other two communities will be willing to sit down
15 and talk about a meeting date once we get past the hearing
16 on Thursday.

17 CALEPA SECRETARY LLOYD: Thank you.

18 Any other comments?

19 CEJAC CO-CHAIR LYOU: Shall I proceed? We're
20 going to move on to conversation about our public
21 participation recommendations in terms of the Advisory
22 Committee, and, and Cal/EPA's response and our -- the status
23 of that.

24 Just in terms of, of chronologically what has
25 happened. Our recommendations report came out in September

1 of 2003. We adopted, I think it's 30 specific
2 recommendations with regard to public participation. And
3 while there was dissent on some of the aspects of our
4 recommendations report, every stakeholder, and this is
5 business representatives, including the local government,
6 environmental organizations, environmental justice
7 advocates, every one of them agreed in the consensus that
8 our public participation -- on our public participation
9 recommendations.

10 And so it was actually the first thing that we
11 took on as a committee, and it was, in terms of committee
12 process, rather painless and, and quick, and, and our
13 ability to reach agreement on, on what measures Cal/EPA
14 should take to improve public participation opportunities
15 with regard to environmental justice.

16 From that point forward, we had the formulation of
17 the Cal -- and finalization of the Cal/EPA Environmental
18 Justice Action Plan, which included commitments with regard
19 to public participation. And in terms of implementing the
20 EJ Action Plan, the creation of the public participation
21 work group, which was a pretty informal jump on the
22 conference call group that, that was organized by Mr. Jim
23 Markson from the Department of Toxic Substances Control.
24 And I just have to acknowledge that he's put in an enormous
25 amount of work to make this, this public participation

1 process go forward.

2 And if we can get the next slide. Based on the
3 input from the working group process, Jim put together a
4 draft public participation policy, and it was at that point
5 that, I mean, I personally took, took a step back and said
6 now, let's, let's go back and, and think specifically about
7 what our recommendations were and how that compares to
8 what's being proposed -- what's being proposed in -- with
9 regard to the, the draft policy.

10 And it didn't line up quite perfectly. There were
11 some issues that, that we had recommended that, that weren't
12 specifically addressed, or there were maybe tangential
13 approaches to the recommendations. So I created a matrix
14 comparing our recommendations to the draft policy, and we
15 brought that up before the Advisory Committee, which led to
16 the formation of what I'm calling here the Advisory
17 Committee Ad Hoc Subcommittee on Public Participation, which
18 really just meant that Jim and I and, and Barbara Lee have
19 gotten on a couple of conference calls and talked about how
20 to resolve the outstanding issues. And we made significant
21 progress, and we have resolved all but a handful of things.

22 And we go to the next slide.

23 These are what we have as, as sort of the
24 outstanding issues on, on public participation, and it
25 appears that Cal/EPA has by and large agreed to all of our

1 recommendations, other than this.

2 Okay. The, the next slide, please. There we go.

3 And, and as you can see, some of these aren't, I
4 mean, the, the fact that they're unresolved isn't, isn't
5 from lack of, of effort. Defining the early, what, what
6 really is early notification and involvement, I think all of
7 us have a sense of what that means in practice, but doing it
8 and putting it down on paper and policy is difficult. And
9 so we haven't been able to get to a point where we've come
10 up with language that, that really defines what it means to,
11 to send out early notifications or to have communities
12 involved at their earliest stages.

13 Secondly, the criteria for determining when to
14 provide translation services. At our advisory committee
15 level, we, we talked about this and, you know, we just put
16 it off. We said, you know, we could spend a lot of time
17 trying to figure out criteria for making that determination,
18 but we're going to, we're going to pass the buck on that
19 because we don't have the time to, to really figure it out,
20 and it's not easy to do. So we recognize that it's, it's a
21 difficult determination, but we do believe that Cal/EPA
22 needs to identify some criteria, because translation
23 services are vital to environmental justice issues.

24 The outstanding issue about education programs for
25 community members was more of the need to educate ourselves

1 about the education programs. Both Jim Markson and, and the
2 advisory committee members were not really aware of all of
3 the educational efforts that take place through the various
4 BDOs, and we think that we can resolve this by perhaps just
5 hooking up what, what existing programs exist with what the
6 environmental justice needs and concerns are. And we
7 haven't fully fleshed this out, but when Jim took a look at
8 it I'm sure he can, he can talk to this issue. He found
9 that there was a lot more going on in terms of education
10 programs that might be applicable to the environmental
11 justice concerns and needs of community members across
12 California, and that he thinks that we need to, to discuss
13 it some more and we'll be able to resolve that.

14 Community affairs offices had to do with really
15 building and establishing the kind of relationships in
16 communities that are necessary to move forward with
17 environmental justice issues. And this is an outstanding
18 issue, I think, because it's, it's resource intensive and
19 it, it needs to be resolved at a level far higher than our
20 advisory committee. And that would include the, the hiring
21 of, preferably of well respected community members to, to
22 work in and run the community affairs offices that deal with
23 public participation across a broader scale, with regard to
24 environmental decisions.

25 And then finally, the job descriptions and

1 performance evaluations. We had recommended that Cal/EPA
2 include in job, the appropriate job descriptions public
3 participation criteria and also criteria and performance --
4 and performance evaluations public participation criteria,
5 so that there would be individual accountability for public
6 participation within the agency. That's run into problems
7 in part because it would require negotiating with employee
8 unions over what goes into performance evaluations, so that,
9 too, is an outstanding issue. And I think what we would
10 like as an advisory committee is assistance in resolving
11 these outstanding issues so that we could wrap up the public
12 participation aspects of our recommendations.

13 If we move on to the next slide, and we're almost
14 done here.

15 Capacity building and, and funding issue. This
16 came out in part as a result of the public participation
17 conversations, but also part of the DTSC's West Oakland
18 Pilot Project, where -- and I think all of us who engage in
19 these projects from an advocacy standpoint, both on the
20 business side of the table and from the environmental
21 advocacy side, at times get overwhelmed just by the sheer
22 breadth and number of meetings and, and issues that are
23 being addressed. And as Cal/EPA's environmental justice
24 program has expanded through the development of the EJ
25 strategy and EJ action plans, it has put greater demands

1 upon community members to be actively engaged in these
2 decision-making processes.

3 And we've been told, as an advisory committee,
4 that these communities lack the resources needed to
5 participate effectively in these program developments. And
6 that obviously creates a big problem, because we all
7 acknowledge the necessity and importance of having community
8 participation in the development of the EJ policies and
9 practices. At the same time, if those communities lack the
10 resources necessary in order to participate effectively,
11 we're not going to have them.

12 So community groups are seeking support for their
13 members or their staff for travel expenses, for technical
14 assistance to deal with the sometimes very complicated
15 issues that they confront when trying to protect themselves
16 from environmental hazards in their communities. And they
17 see themselves as, as being at a disadvantage because of
18 their lack of capacity and, and funding to engage at all
19 levels at all places at all times with the amount of work
20 that's going on these, these various Cal/EPA and, and
21 regional regulatory agency developments.

22 If we go to the next slide. Other direction. And
23 I think Cal/EPA's done a wonderful job of getting us through
24 this.

25 Let's see. There is the EJ small grants program

1 that was funded this year, which obviously everyone views
2 as, as important in terms of providing funding to community
3 groups to participate in these processes. But it doesn't
4 address the full need. The, the maximum grant amount is may
5 \$20,000, and quite frankly, that doesn't pay for a whole lot
6 of, of either travel or staff time, or member outreach and
7 education.

8 And the second item on, on my slide is provision
9 of funding of technical assistance, raises other issues.
10 And, and this comes from the experience that some of us have
11 had with regard to, for example, the USEPA TAG program, the
12 Technical Assistance Grant program, which academic experts
13 with technical capabilities come in and, and provide
14 assistance to communities. And there have been some issues
15 raised in terms of the independence of those, the working
16 of, of those technical experts with the communities and the
17 veiled perception that because their funding requires EPA
18 approval, that they may not be willing to stand up and fight
19 for the communities as, as much as they need to.

20 And similarly, if Cal/EPA is the funding source
21 for all of the participation for the groups, it raises a
22 potential issue that, that these groups may be beholden to
23 Cal/EPA and hold back, or not actually ask for all -- what
24 they should be asking for in order to protect themselves.
25 So there are some other issues that come up in the context

1 of this. And, and I think what -- the conclusion that we
2 basically came to at our last meeting was that we do need
3 assistance and some ideas from, from all the experience and
4 knowledge and, and authority at this table in terms of how
5 to resolve this problem of, of making sure that the
6 communities that need to be engaged in this process have the
7 ability to do so. It's a complicated question, but it's one
8 that I think we're, we're seeking some assistance with.

9 And if we can get to the, the last slide, I'm just
10 going to review some of what these action items are for you
11 today.

12 And the first is we're, we're asking that you
13 approve the recommended role of the advisory committee so
14 that we can all agree upon what we're supposed to be doing
15 and, and how we're going to go about it. Secondly, our
16 recommended pilot project goals, which is that one-pager in
17 your package. Third, assistance with the outstanding public
18 participation issues, to resolve those. And finally,
19 proposals for resolving capacity building and funding
20 problems.

21 There are two sort of other categories I've left
22 off this list, and that would be the ARB Local Advisory
23 Group proposal that was brought to our, our advisory
24 committee and approved. It was brought to us by some of
25 the, the community members involved in the ARB process, and

1 it was approved by resolution by our committee.

2 And secondly, with regard to Midway Village, I
3 think there was a request there, and I would say that that
4 request there is, is -- maybe I'm wrong about that. The
5 request -- clarify that one. The request on Midway Village
6 was to provide assistance to the community, I think, in
7 order to resolve these outstanding issues of community
8 concerns. So that's, that's how we'd like to move forward
9 on that.

10 Thank you.

11 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Actually, the
12 request was that to hold a public meeting of the CEJAC and
13 the secretary, to address that issue.

14 CEJAC CO-CHAIR LYOU: Oh, that's right. Thank
15 you, Shankar. My, my memory's gone. You're right. There
16 was actual -- we did, we did pass a resolution on that, I
17 think. So a meeting of, of our advisory committee with
18 Secretary Lloyd to discuss Midway Village, but I think that
19 the goal of that, of that meeting would be to come up with
20 some creative, as they would say, out of the, out of the box
21 solutions to what's going on at Midway Village.

22 CALEPA SECRETARY LLOYD: Thank you, Joe
23 and Dave. Very thoughtful comments there. Any further
24 comments from the working group?

25 Lynn.

1 ARB DEPUTY EXECUTIVE OFFICER TERRY: Just one clarifying
2 comment on the discussion about the roles and, and just the
3 way the, these bullets are structured. Because of the, the
4 structure that talks about the advisory committee providing
5 comments and recommendations. I want to make sure that
6 everybody is clear that that's what the, the primary
7 function is, because when you go to the bullets, those are
8 verbs that imply actions by agencies and not the advisory
9 committee itself. So I, I've seen situations where folks
10 are looking at that and it could be easily misinterpreted
11 that the advisory committee is implementing and evaluating,
12 and so on.

13 So I just thought it was important to have that on
14 the record.

15 CALEPA SECRETARY LLOYD: Thank you.

16 Yes. Paul.

17 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: I was going to
18 say, are we going to go sequentially through each one of
19 these bullets and talk about them individually, or were we
20 looking for general comments, or --

21 CALEPA SECRETARY LLOYD: I think general
22 comments. I think that was our intention. We're also going
23 to hold open to the, to the public for comments.

24 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Public comments.

25 CALEPA SECRETARY LLOYD: So, again, we're

1 going to throw it open here to public comment, and then for
2 those who are interested and signed the card outside, I
3 guess we've got some cards already. I'd appreciate if, if
4 we can get people to keep their comments to about five
5 minutes so we can move ahead, and use the microphones there.

6 So first speaker, Jose Bravo, then Penny Newman,
7 and then Diane Takvorian. So, Jose.

8 MR. BRAVO: Good morning. Jose Bravo, with the
9 JUST Transition Alliance, and also Chair of the Board of
10 Communities for a Better Environment, and working with
11 projects with labor and environmental justice.

12 I wanted to just support the, the proposals put
13 forward to you today, and I would really encourage that you,
14 you adopt what was put forward to you today. We took a
15 considerable amount of time putting those things together,
16 and I think it's very important for us to make sure that the
17 communities and everybody else, all the other stakeholders
18 involved, are, are heard in this case.

19 Thank you very much.

20 CALEPA SECRETARY LLOYD: Thank you, Jose.

21 Penny.

22 MS. NEWMAN: Good morning. I, too -- I'm Penny
23 Newman, and I'm with the Center for Community Action and
24 Environmental Justice in the Riverside-San Bernardino area,
25 and part of the Modesto Coalition working on the goods

1 movement from the ports all the way out to Riverside, San
2 Bernardino, Colton.

3 I, I, too, want to endorse the proposals that are
4 put before you. I think anyone who has sat through the
5 CEJAC meetings knows that there's a great deal of debate
6 that went on. It is a very broad representation of
7 stakeholders, and, and every little issue has been diagnosed
8 and, and picked apart and thought through very, very
9 carefully. So this comes to you not as something that is
10 just off the cuff. This is something that has really been
11 dissected pretty thoroughly.

12 I wanted to point out one thing on the, the role
13 of CEJAC and the one part about the African-American,
14 tribes, and so forth. The reason that that was brought up
15 is that there was a point made that African-Americans have
16 been basically overlooked on the project, on the committee,
17 and that there was one member, and that it was important for
18 some of the communities that that be recognized. Not just
19 lumped in with, with people of color, but that there clearly
20 needs to be that representation taking place.

21 So that's how that language came out. It wasn't
22 that we were just making a list of everybody and anybody who
23 could possibly be added in.

24 I think the other issue that, that CEJAC has put
25 forth a great deal of effort on, had a lot of discussion,

1 was on the recommendations for the goals for the pilot
2 programs. I think all of us recognize that going forth the
3 way we were without having some way of looking at or where
4 we were going with the pilot program, what is the pilot
5 program supposed to be doing, that without a clear outline
6 of that it made it very difficult for anybody to know if
7 we're doing it. And so the goals came forward. This was a
8 very long couple of days, if I remember correctly, in
9 discussing this and in trying to come up with some that made
10 sense to everyone.

11 And so I, I hope that all of you will endorse that
12 and adopt those goals. I think they're comprehensive and,
13 and will go toward making the projects the best that they
14 possibly can be.

15 And then the third point that I wanted to talk
16 about was the proposal for the local advisory groups for the
17 Air Resources Board. This really was put forward as a, a
18 way of trying to mend some relationships. I think all of
19 you are aware of the conflict that has taken place when ARB
20 signed the railroad MOU, and how many of us who have been
21 working on legislation, on rules, and other issues trying to
22 resolve some of the emissions from railroads, felt very
23 betrayed in the secret deal that was made. And I don't want
24 to get into the details of it, but it created some very hard
25 feelings among the communities specifically who were in this

1 pilot program.

2 Many of us in our communities were debating
3 whether to even continue with it, because we felt we
4 couldn't trust the process. That debate continues in the
5 community. One of the suggestions was that we put forward
6 in a way in which there can be specifics for the LAGs, that
7 there be specific membership, because as it is, anybody who
8 happens to show up has input and directs things, and it gets
9 kind of lost. There's no consistency, there's no
10 continuity, there's no stability to the process. That every
11 time you have a meeting, then you have new people coming in,
12 you kind of have to start from square one.

13 And I think, as someone who has dealt with public
14 participation for the last 27 years, and developed, in many
15 instances, the advisory committees under Superfund and with
16 the state Superfund program, as Mark Leary knows, that this
17 is a way of really involving the community in a meaningful
18 way, not just hearing comment, but taking it seriously and
19 having discussion. It provides that continuity. There are
20 people who are up to speed on it, who can come in and, and
21 keep it moving so that it doesn't get mired in, you know,
22 the latest new voices or faces that show up.

23 So I think that what was put forward here was
24 really our effort to try and find a way so that our
25 communities feel comfortable participating in the ARB pilot

1 programs, given the tension that we've had, and that it
2 would provide them with a way of making the pilot programs
3 really work. So I'm, I'm hearing a little bit of rumor
4 that, that there's some objection at ARB to do this.
5 Comments about it would create a mini-CEJAC. We have CAGs
6 everywhere. I mean, DTSC has them very effectively with
7 their communities. They work. And they work because they
8 give meaningful involvement for community members.

9 I think what they've outlined is a very balanced
10 representation on the LAG, and, and should produce some very
11 good results. I hope that ARB takes to heart that this was
12 done in a, a measure to try and mend our relationship, to
13 find a way to work together, and, and if it's not, I think
14 this is really going to be the point at which the
15 communities, all three of them, Wilmington, Commerce and
16 Mira Loma, decide whether it's really worth moving forward
17 on this or not, or whether they're just going to play cops.

18 So, thank you.

19 CALEPA SECRETARY LLOYD: We have Diane
20 Takvorian.

21 MS. TAKVORIAN: Good morning again, and let me
22 thank you again for the, the resolution. I certainly
23 appreciate that, and it has really been my privilege to
24 serve. And hopefully, I believe that the CEJAC has really
25 made incredible progress in developing a progressive

1 framework for environmental justice for the state of
2 California, one that hopefully we can build on, and, and we
3 really appreciate the relationship that we've had with the
4 IWG thus far. And I wanted to thank Joe and David for the
5 great presentation that they've made. I think it really is
6 very representative of the issues that the, the CEJAC has
7 addressed and, and our priorities.

8 I, I wanted, I guess lastly, to thank Alan for,
9 for your comments about CEJAC's important role and the
10 acknowledgment of, of that role. And I think that, you
11 know, we've had the opportunity over the last two years to,
12 to participate in is a stakeholder group that's comprised of
13 folks with pretty different perspectives. We have different
14 responsibilities in our lives and in our, in our work. We
15 have different experiences. We're paid by a variety of
16 different organizations, and I would venture to say that
17 there's probably not a hugely long list of things that we
18 agree on out in the world, but we took our charge and our
19 composition very seriously, and I wanted to underscore what
20 Dave said.

21 And I think that the things that we are, the, the
22 four things, the roles, the goals, the comment about Midway
23 Village, and the ARB LAG are issues that this committee came
24 together on almost unanimously. So I, I just want to
25 underscore what a, what a statement I think that is, and

1 certainly when you debate that, your perspectives as agency
2 representatives is certainly very very important. But I
3 just want you to know that that was not a quick -- were
4 there any quick items at CEJAC? I don't think so. But, but
5 they were all very, very well discussed, and with very many
6 different perspectives, and they generally don't look the
7 same going out as they do coming in. So they, I think they
8 got, they got good, good discussion.

9 I think there's commonalities with all these four
10 issues, that they all stress community -- that the community
11 be a driver, community participation, that there are new
12 approaches with precaution and cumulative impacts that are
13 incorporated in, in all of them. So those, those themes
14 keep coming back.

15 I want to also say that I think that we recognize
16 the need for additional resources, and I think it's really
17 important that we're now talking about additional resources
18 both for Cal/EPA and the agencies to, to do the, the pilot
19 projects and other work, as you said, Paul, well, and, and
20 in an engaged way. But we also need resources for the
21 community to participate in an appropriate way. So I think
22 it's really appropriate that we think about those things
23 together.

24 And I also think the, the relationship between the
25 IWG and the CEJAC at this moment is pretty critical. When

1 we're talking about public participation, the way in which
2 these critical recommendations that have come to you today
3 are taken, and the way in which that input is, is taken in
4 and incorporated into the work that you do I think is a
5 model for public participation should happen out there in,
6 in the world with the agencies, the BDOs, relating from a
7 public participation perspective with the communities. So
8 how we develop a relationship, what the example is that the
9 IWG and the CEJAC have, what that relationship is, I think
10 serves as a model, and one I hope will, will be a good one.

11 On the pilot projects, I, I think the community
12 driven aspect of the pilot project goals is, is critically
13 important. And one thing I think wasn't said is that it's
14 not only about public participation, it's really about
15 coming from the community. It's really about trying to
16 figure out with community members what the key priorities
17 are. And so it isn't something that gets cooked somewhere
18 else and then brought to the, the community early and with
19 all the public participation criteria being fulfilled.
20 Those are all very, very important, but I think what we were
21 trying to stress there was that there are issues that the
22 community feels that it really wants to bring to Cal/EPA and
23 all of the BDOs, and we hope that those, that you'll be open
24 to those.

25 And I think that, again, the policy and advancing

1 precaution and cumulative impact is critical for the pilot
2 projects. This was, these were not meant to be only a place
3 where the BDOs would go in and solve a critical community
4 problem. It was supposed to be advancing a framework and
5 setting a model, something that could serve in other places.
6 I was just talking to Adrian about the New River Project,
7 how important that is for the work that we're doing in
8 Tijuana, because how that goes for the New River will be
9 very important for the Rio Alamada and the Tijuana River in
10 our area. So let's think about these as models that, that
11 we're creating.

12 The Midway Village obviously is a, is a flash
13 point in a lot of ways, but I think it's really a perfect
14 opportunity to do more and thinking -- think outside the box
15 and act outside the box. And if DTSC has in fact done all
16 that they can do, then CEJAC needs to be moved -- the CEJAC
17 was moved to say let's take additional action. What else is
18 there that we can do. Without being critical of DTSC, what
19 can we all put our heads together and do, and not just say
20 that door is closed, it's, it's over.

21 And then my last comment is on the ARB LAG. I, I
22 think I want to underscore Penny's point. This is a serious
23 effort that really addresses the fact that this, this pilot
24 project is really lagging in a lot of ways. And I, I think
25 that the fact that the community came back to the CEJAC

1 table and said we want to participate and here's a way we
2 think this will work, is something we all need to take very
3 seriously. They didn't walk away, which, frankly, I thought
4 would happen. And I, I think, I hope you take that very
5 seriously.

6 I think all of this represents that the community,
7 the EJ community, is very very committed to working with
8 Cal/EPA and the BDOs, and is not walking away from the
9 table. The environmental justice community desperately
10 wants this to work. We want to make progress, we want to
11 make it faster than we've made it to date, and we're, we're
12 very interested in working with you and hope that you'll
13 accept all of the recommendations that we've put forward.

14 Thank you.

15 CALEPA SECRETARY LLOYD: Thank you.

16 I've got a couple of comments here from Midway. I
17 don't know whether to take them now or to take them after
18 we've had the presentation on Midway. Do you want to do it
19 now? Okay. So we've got Mary Tanner, Maria Downing. So.

20 MS. TANNER: Oh, hi. My name is Mary Tanner, and
21 I live in Midway Village, and I'm here again to let you know
22 I'm still living on toxic, and I'm getting sicker and
23 sicker. And I get at least about -- at least four nights of
24 good solid rest, because when I lay down my nose clogs up
25 and I can't breathe very good, and it's -- and during the

1 day I don't focus well. And it's, it's really tearing my
2 body down so that I can function and take care of myself
3 like I should go to my doctor's.

4 And with this situation going on with me, I, I
5 need rest so I can go and take care of things, or take care
6 of my business. This has entirely taken me away from what I
7 need to do. And I would appreciate that you would keep put
8 -- not close the door and, and see that we get proper things
9 so we can get some over there, so we can go on with our life
10 and get better, because it's not getting any better for us.

11 And also, with us coming here, it is not easy.
12 But we need to get away from Midway Village because I am
13 deteriorating. And last night I didn't sleep at all. I am
14 here today and begging you, please get us away from Midway
15 Village. Thank you.

16 CALEPA SECRETARY LLOYD: Thank you very
17 much. Thanks for coming.

18 I've got Maria Downing.

19 MS. DOWNING: Hi, my name is Maria Downing and I
20 live, I've lived in Midway Village for at least 30 years.
21 I'm here, like Mary brought out, it's a great sacrifice for
22 us to come all the way from San Francisco with the gas being
23 so expensive, but I feel it's so important that you are
24 reminded that while you guys debate all these issues and
25 talk about, discuss them, and back and forth, it's like a

1 little wheel, like a hamster on a wheel. I don't see any
2 action, nobody has called us to sit down and say well, we
3 have a resolution and, you know, action.

4 We don't want no relationships, create
5 relationships with Mr. Robinson here. Like he had come to
6 the, to, to see us at, at the village, and we thought that
7 he was a ray of hope for us. We thought finally we're going
8 to get some real action, we're going to get relocated so
9 that we do not continue to live upon these nasty toxic,
10 poisonous substances. They're under our units.

11 Mary couldn't explain it very well, but we all
12 have the same symptoms. I mean, breathing is -- should be
13 something that everybody has a right to do. Well, we can't
14 even breathe over in, in Midway, because we get full of
15 mucous. I personally have conjunctivitis, chronic. The
16 other day, I don't know, maybe I ate an apple that maybe had
17 pesticides, and since I'm so sensitive to chemicals now my
18 eyes got so swollen I couldn't even open them, and they --
19 when I opened them I couldn't see. I thought I was going to
20 go blind. So I don't know what else needs to happen in
21 front of you, this committee, for you to do something, you
22 know, to talk to the right agency to get us out of there, to
23 relocate us, like -- I don't know what the other gentleman
24 that was here, it's on tape what he said. If we were a
25 white community we would already be out of there. So just

1 because we're not a white community, does that make, make
2 us, does that, the government doesn't have the right to
3 protect us like all the other people? I mean, that's what
4 our government is supposed to do, it's supposed to protect
5 us and give us at least some clean environment.

6 This is a, a fact, a fact matter, there's so many
7 documents proving that we're living on top of these
8 chemicals. Mr. Robinson admitted it on tape. Midway
9 Village is not clean. It's contained. Now he's back-
10 pedaling, saying that he didn't say that. Now it's on tape,
11 now the, the tape -- I mean, the, the record has been
12 tampered. We've been requesting the videos, and we haven't,
13 we can't get the video. On the video it's going to show
14 again that he admitted that.

15 Now, when we think here he's going to help us and
16 he's our ray of hope, instead now he's putting out a letter
17 where he's saying that we've been offered something, and I
18 haven't, nobody has called me and offered me anything. All
19 we want is to come to the table with some people that have
20 the authority to, to move us out of this place, because it's
21 true. They, they contained it around, around us, but nobody
22 picked up my unit and cleaned underneath my, my unit. And
23 my immune system is all messed up. I go to my
24 ophthalmologist because I have corneal ulcers every month,
25 and, and all she could tell me is there's something with

1 your immune system.

2 Well, my immune system is, is messed up because
3 it's constantly being depressed by 350 PNAs under my, my
4 unit, and then on top of that I have arsenic and lead, and
5 all these vapors, and I live right next to PG&E. This is a
6 Superfund area. Everybody knows it. What's the problem
7 here? Why can't anybody say, you know, and have some
8 empathy, and say there's some people here that are dying.
9 Maybe some people want to stay there. I personally know the
10 facts, and I don't want to stay there. Unfortunately, now
11 I'm too sick and too old that on my own, I can't do it.

12 And so I need the proper agencies to take, accept
13 responsibility for what's happening to myself and my family
14 and the other people in the community that want to leave.
15 And so I don't know how many times, whatever times it takes
16 for me to come here, I will bring my daughter and take her,
17 and get up early in the morning because I need you guys to
18 see the reality of Midway Village. I am the reality of
19 Midway Village. I am dying on Midway Village. And I don't
20 even have the money anymore to continue to buy products to
21 boost up my immune system in order just for me to function,
22 to take care of her. She needs me to take care of her, and
23 I can't.

24 I have to continually buy tons of thousands of, of
25 herbal stuff because I can't take any chemicals, because the

1 chemicals, I'm so sensitive to everything. I can't, my
2 liver's no good, my pancreas, everything is messed up. Why?
3 Because I'm continually being exposed to this. The person
4 that I get the, the products from for my immune system, she
5 says well, you, you're on a Catch-22, you're taking these
6 things but your body can't keep up because you're still
7 living on top of these things.

8 So I don't know what it's going to take. I mean,
9 nobody, like you put in the letter that you said that there
10 was some offer for us for Section 8. Nobody has offered us
11 nothing. And besides, can I make a decision about my fate
12 for a change, because I didn't have a choice to live on top
13 of contaminants. I moved in that community thinking it was
14 a clean community. Yeah, I'm poor, but I'm thinking I'm
15 living, my government is protecting me and I'm living on top
16 of some, you know, a, a clean area.

17 So now can I decide my fate? Can you ask me what
18 I want to happen to me instead of just deciding and, and
19 saying well, I'm going to give you Section 8, or whatever.
20 No, that's not acceptable. You need to take into
21 consideration what the community that's dying there wants.
22 What we want, and we want that to happen now, because every
23 time you guys sit here and seems to me that you're more
24 interested in keeping your paycheck and your job and your
25 glory, or whatever, and you really don't care about our

1 plight, just because we're not a white community.

2 It's been, it's been admitted right here in front
3 of all of you, twice. I don't know what the gentleman's
4 name was that was sitting right there, and he said, I'm
5 going to put it on record again in case it was tampered, if
6 this was a white community you would not be sitting on that
7 contamination still.

8 So, you know, why? Just because we're not white
9 does that make us sub-human, and we're not, we don't deserve
10 to live in a clean environment? And somebody needs to take
11 some accountability for this and move us out of there. And
12 that's all that we're here. Every time we're going to be
13 here to remind you that this is our reality, and that we're
14 real and we're dying, and we're sick. And it's, it's not a
15 coincidence that all of us have the same symptoms. Our
16 immune systems are depressed.

17 And so, you know, that's all I'm here, and I thank
18 you for your time and for listening to me.

19 CALEPA SECRETARY LLOYD: Thank you. I
20 know we'll have some more discussion on this next item.

21 Madam Chairwoman.

22 CIWMB CHAIRPERSON MARIN: Yes, Mr. Secretary.
23 One of the questions, and I am sure Ms. Downing has seen
24 this, I'm just reading this for the first time, but this is
25 the Housing Authority of the County of San Mateo back on

1 March 24th, 2000. Have you seen that letter?

2 MS. DOWNING: Yes, I have.

3 CIWMB CHAIRPERSON MARIN: Okay. All right.

4 Because that, I believe that that was what she was referring
5 to, where the board of supervisors would, it was the board
6 of supervisors, it wasn't EPA or any department here, that
7 was talking about the Section 8. So I just wanted to make
8 sure that she --

9 MS. DOWNING: That was offered to us, but it
10 wasn't offered to us as --

11 CIWMB CHAIRPERSON MARIN: It's okay. I just
12 wanted to make sure that you had --

13 MS. DOWNING: That was offered to us, but the way
14 that the, the letter, it's, the new letter that came out, it
15 seems like we have been offered something recently. That,
16 that was in 2000. And besides, that was not what the
17 community wanted. It was offered us without the home
18 ownership program. If we're going to move, we don't want to
19 be -- I don't want to be moving from one place to another.
20 That, that in itself would, would kill me, with, with a sick
21 daughter and myself being sick, having to move and move and
22 move with a Section 8 voucher. If I'm going to move, I'm
23 going to move where I'm going to be permanently settled
24 until I die, which may be tomorrow, because, you know, the
25 way I'm, you know, the way my health is, I may not last, you

1 know, for, for very long.

2 But I'm saying at least my last days, maybe if I
3 have maybe two years more, can I live on a clean
4 environment? That's all I'm asking.

5 CALEPA SECRETARY LLOYD: Thank you.

6 CAL/EPA DEPUTY SECRETARY DR. PRASAD: I have one.

7 CALEPA SECRETARY LLOYD: Shankar.

8 CAL/EPA DEPUTY SECRETARY DR. PRASAD: There's one public
9 comment received on the Web.

10 Dear IWG, thank you for allowing the comment on
11 the role of Cal/EPA CEJAC. On the first key activity where
12 the language was added, consistent with CEJAC's 2003
13 recommendations report, this language, this language should
14 be deleted. The EJ strategy was adopted by the IWG in
15 August 2004, taking into consideration the CEJAC
16 recommendations. IWG did not include all recommendations
17 from the 2003 recommendations report. Any implementation
18 and evaluation should be consistent with the IWG adopted
19 policies. Mary Pitto.

20 CALEPA SECRETARY LLOYD: Okay. Well, I
21 think everybody's got a copy of the role of CEJAC language,
22 and again, for those members who don't have it, this --
23 well, members have it, there's also copies outside the room
24 there, so we -- oh, it's up there, too.

25 I've also been advised by counsel, we talked about

1 the language cannot include reference to specific population
2 subgroups, and I think that's the one that Shankar
3 mentioned. So we'll use the recommendation for the language
4 there.

5 So I'll begin asking the individual members if
6 they have comments here regarding the role of CEJAC.

7 WORKING MEMBER GROUP GOSSELIN: Yeah. I was going
8 to -- this is Paul Gosselin -- going to comment, follow up
9 on a comment that I think Lynn mentioned earlier on the
10 first bullet, implementation and evaluation of Cal/EPA's EJ
11 strategy and action plan consistent with CEJAC's 2003
12 recommendations report.

13 There was some reading of this about the role of
14 CEJAC in the paragraph before, whether the term consistent
15 with the CEJAC recommendation and tied back to
16 implementation, if it -- without going back to the previous
17 paragraph, it could read that it kind of narrows the scope
18 of what the role of CEJAC is, and kind of might have it read
19 that they're implementing the recommendations. And so one
20 reads that the term consistent might be better served by in
21 consideration of, or at least acknowledge that the preceding
22 paragraph kind of qualifies that CEJAC is giving advice, but
23 it's narrow to what the recommendations were.

24 Kind of a stream of consciousness comment.

25 ARB DEPUTY EXECUTIVE OFFICER TERRY: Well, actually I was

1 trying to get at the, the same point, that because we did
2 have some concerns with the word consistent, in terms of the
3 agency's implementation if there were different
4 understandings of what that mean, in consideration of would
5 be an alternative. But we could also live with simply the
6 recognition that this is the view of the Advisory Committee
7 on whether we're being consistent. So we could go either
8 way on that.

9 CALEPA SECRETARY LLOYD: Clearly, in the
10 end we have to take into account as much as we can, but we
11 have to make some final decisions there. We could, we've
12 got the resources, we could make them do it.

13 Dr. Prasad.

14 CAL/EPA DEPUTY SECRETARY DR. PRASAD: If I hear you right,
15 what you are suggesting is instead of using the word
16 consistent, you would say --

17 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: In, in
18 consideration --

19 CAL/EPA DEPUTY SECRETARY DR. PRASAD: -- change the word,
20 in consideration of CEJAC, that's -- because what this,
21 yeah, that one does not work because the moment we approve
22 this is it CEJAC's role is now what we have defined. So
23 another way of putting it in the previous paragraph, they
24 will make the recommendation, but once this is approved we
25 have agreed upon that this is their role. So --

1 ARB DEPUTY EXECUTIVE OFFICER TERRY: Yeah, but their role
2 is to comment on whether or not in their view we are being
3 consistent. Their role is not to make the decision.

4 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Okay.

5 OPR CHIEF DEPUTY DIRECTOR BOEL: Maybe, to me it makes
6 more, I want to make sure. When you just look at the
7 bullets up there, then it becomes confusing. But when you
8 have that first paragraph, that makes me understand it. So
9 I just want to clarify, does the first paragraph, it's
10 included in their role; right?

11 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Yes.

12 OPR CHIEF DEPUTY DIRECTOR BOEL: Okay. Well, that,
13 that clarifies it for me.

14 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: And that's why I
15 was circling around. The whole read of the entire section,
16 you know, is okay, but just the bullet standing alone,
17 thinking ahead for future, you know, it could add some
18 confusion. So, you know, a slight change might make it --
19 it won't change the entire intent, but might make it a
20 little bit more, more clear. But you're right, the entire
21 section kind of fits along those lines.

22 CIWMB CHAIRPERSON MARIN: Mr. Chair, is this,
23 I'm thinking procedural. Do you want us to approve section
24 by section, is that -- or are we going to do it all --

25 CAL/EPA DEPUTY SECRETARY DR. PRASAD: This item as a --

1 CIWMB CHAIRPERSON MARIN: Can we just do this
2 specific?

3 CALEPA SECRETARY LLOYD: Yes.

4 CIWMB CHAIRPERSON MARIN: So with the, with the
5 change, or the -- I guess everybody's ready. I would move
6 that we accept the specific CEJAC role as presented by
7 staff.

8 ARB DEPUTY EXECUTIVE OFFICER TERRY: Second. And just to
9 clarify, that means the beginning paragraph, as well.

10 CALEPA SECRETARY LLOYD: Yes. Yes.

11 Any further discussion?

12 OEHHA CHIEF DEPUTY DIRECTOR SIEBAL: Yeah. I just want
13 to acknowledge that, I think all of us do, that there's been
14 a lot of work put into this by the CEJAC, and that I think
15 what we're talking about right now is adopting probably 98
16 percent of what, what they recommended, as well. Is that
17 correct?

18 CALEPA SECRETARY LLOYD: Okay. So all in
19 favor, say aye.

20 (Ayes.)

21 CALEPA SECRETARY LLOYD: Anybody against?

22 Great. Thank you. And thank the CEJAC, too.

23 So we'll go, what I'd like to do is take the one
24 item on the EJ Pilot Projects before lunch, and then we'll
25 take a break for lunch here. So we've got a copy of the

1 recommended goals for the EJ projects, and that was, that's
2 been forwarded to the, to us for the meeting. So I'd like
3 to ask members if they're got any comments regarding the
4 recommended goals there.

5 ARB DEPUTY EXECUTIVE OFFICER TERRY: I think a job well
6 done.

7 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Is that's a
8 motion, I'll second.

9 ARB DEPUTY EXECUTIVE OFFICER TERRY: Yes, that was a
10 motion.

11 CALEPA SECRETARY LLOYD: Any further
12 discussion? Seemed too easy. So the motion was?

13 ARB DEPUTY EXECUTIVE OFFICER TERRY: Motion to approve.

14 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: And that was
15 second.

16 CALEPA SECRETARY LLOYD: Great.

17 All in favor, say aye.

18 (Ayes.)

19 CALEPA SECRETARY LLOYD: Nobody
20 abstained. Thank you very much. So why don't we see if we
21 can break, yeah, at 12:30. People, can people make it in by
22 12:30, 12:35? Yeah, let's try to do that since we've got a
23 lot to do this afternoon, so let's come back at that time.

24 (Thereupon, the luncheon recess
25 was taken at 11:47 a.m.)

1 AFTERNOON SESSION

2 CALEPA SECRETARY LLOYD: As we heard this
3 morning, there has been quite a bit of discussion and
4 learning on Midway Village, so I, I think it's appropriate,
5 Leonard, for us to learn from DTSC what they've been doing
6 on the village and hopefully they'll be able to provide us
7 some updates. So I'll turn it over to you.

8 DTSC ACTING DIRECTOR ROBINSON: Well, Dr. Lloyd,
9 IWG members, CEJAC members, BDOs and interested parties,
10 we're going to, I'm going to turn it over to Caren Trgovcich
11 from our Site Mitigation, and she's going to go over a
12 presentation that we made to the CEJAC, I believe June 3rd.
13 Also, in your packet you should have a letter that we wrote
14 to the IWG and the CEJAC. If you don't have a copy, we have
15 extra copies here. We, you know, we understand the
16 frustrations of the community. What we want to do is we
17 want to explain, we want to present what we've done, the
18 steps we've taken, and then we have a few additional
19 comments towards the end.

20 So I'll turn it over to Caren.

21 MS. TRGOVCICH: Thank you, Mr. Robinson.

22 Good afternoon, Mr. Chair and Members. I'm Caren
23 Trgovcich, Chief of the Statewide Cleanup Operations
24 Division with the Department of Toxic Substances Control.

25 While what you're going to see up on the screen is

1 a presentation that was provided in June, I'm going to
2 breeze through that and try to focus on some key points that
3 I've been asked to elaborate on today.

4 What we have up here at the front, if anyone would
5 like additional copies, and I can hand them out later, as
6 well, are copies of the additional slides that we have
7 included in today's presentation, a copy of the most recent
8 fact sheet that was distributed back in 2001. Actually, one
9 of the more comprehensive fact sheets. It provides
10 additional background on the site for you. Plus a copy of
11 the letter that was being referred to in the discussion this
12 morning. And we would be happy, if we run out of copies, to
13 make additional, as well.

14 CALEPA SECRETARY LLOYD: How do your
15 slides differ from the ones in Attachment 4?

16 MS. TRGOVCICH: In Attachment 4. I'm --

17 CALEPA SECRETARY LLOYD: Oh, okay.

18 MS. TRGOVCICH: Yeah. What I did was I, what is
19 here, and I'm going to pass these around, it's just a one
20 page, front and back. These are the additional slides. I
21 was trying to recall my days at the Integrated Waste
22 Management Board, reduce, re-use, and recycle, and trying
23 not to --

24 (Laughter.)

25 MS. TRGOVCICH: -- copy more paper than was

1 necessary.

2 Yes, that's the fact sheet, and I'll send these
3 around, as well.

4 I want to go back to a point that Joe Lyou made
5 this morning, because I think it's really important as a
6 basis for starting this discussion out, or this dialogue
7 out. I think Joe recalled an e-mail that was sent by Mike
8 Dorsey, I believe it was yesterday or the day before,
9 regarding the Midway Village site. And what Joe said in his
10 recollection of Mike's e-mail was that there's a distinction
11 between the protectiveness of the cleanup that was conducted
12 at Midway Village and the continuing or ongoing concerns of
13 the community. And what I hope to be able to provide you
14 with is some information so that you can have an informed
15 discussion regarding the facts associated with what the
16 cleanup was, and then you can hear from the community
17 regarding their ongoing and continuing concerns regarding
18 their residency at the Midway Village site.

19 So I'm just going to very briefly go to the first
20 couple of slides, and then you'll see me skip rapidly,
21 because I thought it was important to just provide you some
22 historical context for the site.

23 The site began as a manufactured gas plant back in
24 1905. It operated for about 11 years, between 1905 and 1960
25 -- 1916. It was then dismantled, and it then was -- the

1 Navy then took possession of it in 1944, with the intent
2 being to construct military housing. So the Navy came in,
3 the federal government came in, and what they did in
4 preparing the site for housing, they were doing construction
5 grading type activities, and in doing that they moved part
6 of the contaminated soil that was sitting on the property
7 adjacent to what is now Midway Village, so the old
8 manufactured gas plant site, and part of it was spread onto
9 the existing Midway Village site. So the manufactured gas
10 plant did not operate on the existing Midway Village site,
11 but adjacent to it.

12 In the next slide you'll see the continuation of
13 the history of this site. The Navy then turned the property
14 over to the San Mateo County Housing Authority in 1955, and
15 they began operating the housing facility as a public
16 housing project. And a small portion of this site at that
17 time also was transferred to the Bayshore Elementary School
18 District, and it's currently occupied by the Bayshore
19 Childcare Center and the Boys and Girls Club. The part of
20 the property that was originally PG&E's was transferred back
21 to PG&E at that time, so remember you have that distinction
22 between those two properties.

23 And then in 1977, the city of Daly City then
24 acquired title to Bayshore Park from the Housing Authority
25 and constructed the park, and one year prior, in 1976, the

1 San Mateo County Housing Authority demolished the military
2 housing and constructed what is today Midway Village.

3 In the next slide --

4 CALEPA SECRETARY LLOYD: When they did
5 that, was there any notification of the contamination of the
6 site?

7 MS. TRGOVCICH: In 1976? No, there was not. I,
8 in -- what you'll see up on the board is our first
9 involvement with the site, and it began back in March of
10 1990, where in our involvement with PG&E on the, in the
11 construction of their Daly City yard, we discovered
12 contamination at the property line, at the border between
13 the PG&E facility and Midway Village. And that's the point
14 at which our formal involvement with respect to Midway
15 Village began. We were certainly involved with PG&E in the
16 1980s with respect to the construction of the Daly City
17 yard.

18 I thought I would take a few minutes, because the
19 question came up in our last meeting in June, just what are
20 we talking about, what kind of contamination are we talking
21 about. What we're referring to as PAHs are Polycyclic
22 Aromatic Hydrocarbons. They're a group of a hundred or more
23 compounds. They are produced by things such as the burning
24 of coal, oil, gas, garbage. They are released from
25 volcanoes, forest fires and automobile exhaust, and they can

1 also be produced through other types of organic substances
2 such as tobacco. So when you think about that and put it
3 all together, PAHs are something that are pretty much
4 everywhere in our environment. They are ubiquitous.

5 So part of the task that we have as you may take
6 an opportunity to review the fact sheet or the presentation
7 from June 3rd going through all of the history of the site,
8 part of the challenge that the department had been and
9 continues to have every day, because we deal with sites
10 every day containing PAHs, we have numerous manufactured gas
11 plant sites that we've worked on in the state of California,
12 and many, many, many that we are currently working on and
13 will work on in the future, along with other sites
14 contaminated with PAHs, as well.

15 And so our challenge is to be able to distinguish
16 between that natural background factor, and maybe natural is
17 an inappropriate modifier there. It's the background factor
18 associated with all the other activities that I just
19 discussed, that leads to PAHs in our environment, and the
20 contamination that's actually caused by the source that's
21 being addressed, in this case, the manufactured gas plant.

22 So as I move very quickly through the slides, and
23 if you'd like to take an opportunity to move back later,
24 you'll see that we had significant involvement.

25 I'd like to pause briefly on the prior slide.

1 Back after the department conducted its initial removal
2 action in 1993, we went through our process that is
3 consistent with the National Contingency Plan. We did a
4 removal action, we specified a cleanup goal, and in doing
5 that, as you move to the next slide, you'll see that the
6 federal government did become involved in that time. A
7 member of the community sent a letter, I believe to the
8 White House, expressing concern over contamination of Midway
9 Village. EPA issued a letter in response, saying the, the
10 work conducted by DTSC in 1993 was appropriate for the
11 situation and removed potential exposures.

12 The community had ongoing concerns and they
13 continued to request for review and involvement of other
14 agencies in what was done at Midway Village. And the --

15 CALEPA SECRETARY LLOYD: What, can I ask,
16 what was the basis of the community concerns?

17 MS. TRGOVCICH: The -- the contamination that
18 exists at the site. One of the residents here spoke earlier
19 and said the distinction, she wanted to draw attention to
20 the distinction made on the record earlier that the site is
21 not cleaned up to unrestricted use. That is correct. There
22 are finite areas on this site where contamination does
23 remain at depth, and those areas are under deed restrictions
24 with a no dig requirement, as well as a cap maintenance
25 requirement. So the ongoing concerns is that contamination

1 does remain at depth at this location.

2 The community continued to request federal
3 involvement, and the ATSDR got involved back in 1998. We
4 convened several meetings with ATSDR and EPA. I believe
5 they held three meetings, and they issued three different
6 sets of recommendations. One of the recommendations was
7 that further construction activities at the Midway Village
8 Project, such an upcoming storm drain project, we should
9 consider or temporarily relocate those residents due to the
10 stress associated with construction activities. They did
11 not cause -- bring attention to the contamination as being
12 the driver, but they said that construction is a problematic
13 issue for a community and we should temporarily relocate.

14 The ATSDR also did raise issues with respect to
15 confirmation sampling that was done after the 1993 initial
16 removal. And so as we move forward in our slides here,
17 you'll see that in March of 2000, we then announced the
18 availability of the sampling plan in response to that ATSDR
19 recommendation, and that sampling plan then was PEER
20 reviewed by the UC system in order to ensure that it was
21 appropriate and adequate. And then in June of 2000 we
22 issued a work notice and began the sampling. This was the
23 confirmation sampling to go back and take a look at how
24 effective was the 1993 removal.

25 The results of that sampling did reveal that there

1 were areas that did exceed the cleanup level established in
2 1993, and I'll talk about the cleanup levels and how they
3 were established in a few minutes. But that cleanup level
4 was ten part per million total PAHs. We used a screening
5 level when we did the confirmation sampling of 0.62 part per
6 million for the benzopyrene equivalents, and I'll describe
7 what that is in a minute, but what that is is the fraction
8 of cancer causing PAH compounds. And there has been a, a
9 methodology developed to look at the potency related to the
10 benzopyrene aspect of PAHs.

11 And so as a result of this sampling, we identified
12 locations where areas did exceed the ten part per million
13 screening level. Remember, we were screening in this
14 sampling event down to 0.62, far below the 10 ppm level. We
15 also identified areas that we previously thought were clean.
16 These were limited in nature, these sampling results, and
17 I'll go into more detail about that in a few minutes.

18 As we move forward, we can see that as a result of
19 that sampling event, DTSC then amended its Imminent and
20 Substantial Endangerment order and required modifications to
21 the removal -- the Remedial Action Plan for Midway Village.
22 And we conducted a subsequent removal action, having updated
23 the cleanup level for the site in 2001. And that updated
24 cleanup level was .9 milligrams per kilogram benzo(a)pyrene
25 equivalents. And once again, I will describe that in

1 greater detail in a few minutes, what that means.

2 And so we issued fact sheets, we held public
3 meetings, informed the community of the work that was going
4 to be conducted. We amended the RAP for the Midway Village
5 site, and what I haven't discussed is the Removal Action
6 Workplan, or RAW, that was prepared for the adjacent
7 Bayshore Park. That area was addressed in 1993, and it was
8 again addressed in the 2001 subsequent removal action.

9 What we did when we went out in 2001, we went to
10 the areas where contamination was found at depth. In some
11 areas we excavated down to five feet. We increased the soil
12 cap. For the Bayshore Park area, the entire park was --
13 the top two feet were excavated off of the entire park. And
14 then our work began in 2001. And we, in carrying out that
15 work, we issued work notices, we set up a hotline for
16 residents to call in to find out what the status of
17 activities were, and we also then cleaned specific units and
18 the daycare facility itself as a post remediation activity.

19 So what I really wanted to focus on providing you
20 with that history, and, of course, I would be happy to
21 answer any questions about the history, but what I wanted to
22 move now to is the cleanup levels, because there have been
23 specific questions raised about that. And what I'd like to
24 do is focus on the most recent cleanup level that was
25 established for the Midway Village Project, because it is

1 the cleanup level that we use today. And that is the .9
2 milligram per kilogram benzo(a)pyrene equivalents.

3 So in moving -- well, let's keep, let's go back to
4 that slide for a minute, let me just stay here for
5 a minute.

6 CALEPA SECRETARY LLOYD: Can I just ask a
7 question.

8 MS. TRGOVCICH: Certainly.

9 CALEPA SECRETARY LLOYD: In terms of
10 risk, how do those two numbers compare?

11 MS. TRGOVCICH: They're actually, in the end we
12 conducted a comparison between the two, and they are
13 actually quite close, if not almost identical, in terms of
14 risk.

15 WORKING GROUP ALTERNATE MEMBER DENTON: Are they
16 ten to the minus five, ten to the minus six? Do you know --

17 MS. TRGOVCICH: What the .9 represents a one times
18 ten to the minus five risk. But I'd like to move into that
19 very briefly, if I could. The .9 milligram per kilogram
20 number, as I said, that is based upon or referred to as a
21 benzo(a)pyrene equivalent. So today's PAH concentrations
22 are generally described based upon their relationship to
23 this particular PAH compound. And the scientific community
24 has chosen this compound because of the large amount of data
25 that's available on it. So there's a tremendous dataset out

1 there in relationship to the other PAH compounds. Remember,
2 I said there are over a hundred of those. There is
3 tremendous information available with respect to monitoring
4 techniques for this particular compound, and there is
5 significant exposure which would be expected because of the
6 prolific nature of PAHs in our environment, and, in fact,
7 found through our monitoring.

8 So a methodology was developed that looked at the
9 seven to eight cancer-causing PAH compounds, and then a, a
10 potency equivalency factor was developed relative to
11 benzo(a)pyrene. So if you say benzo(a)pyrene is this
12 potent, some of those cancer-causing compounds will be more
13 potent, some will be less potent. And so it's all referred
14 to as a, as a relationship back to that benzo(a)pyrene
15 compound.

16 So what the, what we did as the department,
17 because we have so many of these manufactured gas plant
18 sites located around the state, and other PAH contaminated
19 sites, is a study was conducted a number of years ago. It
20 initially primarily focused on the southern California
21 region, but a comparable study was conducted in northern
22 California which attempted to quantify background for PAHs
23 in our environment. Because what we try to do in our risk
24 management strategy is what we try to do is clean a site up
25 so that it gets back to, if possible, background for that

1 contaminant in that situation.

2 So our initial study in southern California, we
3 collected somewhere around a hundred and eighty to ninety
4 samples. They were collected. These were not samples that
5 were collected at contaminated sites themselves, but away
6 from them so as to represent background. Granted, we could
7 not attribute the levels we found to a particular source,
8 but we knew they were not associated with the manufactured
9 gas plant. And we went through a lot of statistics, and
10 what we did, where that .9 number comes from, is based upon
11 that study; .9 represents what we call the upper bound of
12 that background concentration that we found.

13 So if you take, for example, 20 samples and you
14 lay them out, the 19th sample would be considered that upper
15 bound, that 95th percentile. So .9 represents that upper
16 bound. So we would expect, from a statistical standpoint,
17 to find approximately five percent of our samples that would
18 be greater than the .9, and 95 percent which would be less
19 than our .9. So when you look at establishing whether it's
20 a cleanup level, a field performance level, however you are
21 using this, generally speaking you are actually finding
22 concentrations that are far lower than that .9. And, in
23 fact, a large, large number of the samples that you'll take
24 will actually be down in the non-detect range.

25 So I just wanted to take a few minutes to describe

1 where that .9 number came from.

2 CALEPA SECRETARY LLOYD: And what about
3 surface exposure to any, any hydrocarbons at all?

4 MS. TRGOVCICH: In terms of the, the cleanup level
5 that was established? Why don't I move in right now, then,
6 to some of the --

7 CALEPA SECRETARY LLOYD: That's, that's
8 the level found in the soil.

9 MS. TRGOVCICH: Correct.

10 CALEPA SECRETARY LLOYD: That's not
11 what's on the, on the air layer next to the soil.

12 MS. TRGOVCICH: It -- in terms of what the .9 is?
13 Well, the .9 is the number at which, if we find anything at
14 .9 or greater --

15 CALEPA SECRETARY LLOYD: Find any where,
16 though? In the air or in the soil?

17 MS. TRGOVCICH: On the -- in the soil.

18 CALEPA SECRETARY LLOYD: Okay. That's
19 what I'm saying.

20 MS. TRGOVCICH: In the soil. I'm sorry.

21 CALEPA SECRETARY LLOYD: But in terms of
22 what people might be breathing, there's, there's nothing
23 there?

24 MS. TRGOVCICH: There -- well, in terms of what
25 people might be breathing, the numbers I'm talking about are

1 soil numbers. We did do subsequent indoor and outdoor air
2 sampling, and I'll talk about that in a couple of minutes.

3 So then moving to the results of our PAH
4 concentrations, I wanted to provide you with a comparison
5 here. And the slides you have up right now shows our pre-
6 '93 removal, so I wanted to show you what we had there
7 before we ever did any work out at Midway Village. So we
8 took 70 --

9 CALEPA SECRETARY LLOYD: So these --
10 these are on this now.

11 MS. TRGOVCICH: That's on -- right, that's on the
12 separate one-page handout.

13 We took 70 surface samples, and you'll see that 69
14 of them we did have detectable concentrations, and you can
15 see that they ranged from .093 to 176 milligrams per
16 kilogram. I'd like to point out these are total PAHs. That
17 was the approach we used at the time. We also took 80
18 subsurface samples. This is between two and ten feet. And
19 you can see we had 46 samples that came back with detections
20 from .019 to 626. And I did round numbers. The numbers in
21 our lab reports go on many more decimal places.

22 Moving to the next slide. For -- before 2001, so
23 2001 was the second removal action that we did, we took 150
24 surface samples. So what this reflects is the confirmation
25 sampling event that I referred to earlier. Of those 150

1 surface samples, nine came back with concentrations ranging
2 from 10 milligrams per kilogram to 26.37. One hundred and
3 fifty subsurface samples were taken at a depth of
4 approximately one and a half feet. Six of those came back,
5 and you can see the concentration, 10 to 53 milligrams per
6 kilogram. Additional samples were then taken at varying
7 depths beyond that, and they vary up to 457 milligrams per
8 kilogram. So this was before our 2001 removal.

9 After our 2001 removal, so this would reflect
10 confirmation sampling for the second removal action that the
11 department did at Midway Village.

12 CALEPA SECRETARY LLOYD: Can I ask you --
13 when you looked at the surface samples, the lowest number on
14 the surface samples there was a, in, in the pre-2001, was a
15 factor of ten greater than 1993. How do you explain that?

16 MS. TRGOVCICH: The 1993 event, what we did site-
17 wide sampling, so we had a lot of areas with little to no
18 contamination that existed. When we went back, the pre-
19 2001, the confirmation sampling event, we went back, we
20 tried to focus on the areas that we worked in previously, as
21 well as previously unidentified areas. I don't think that
22 necessarily answers your question on why you would see the
23 lowest detection at being an order of magnitude greater --

24 CALEPA SECRETARY LLOYD: Two orders of
25 magnitude.

1 MS. TRGOVCICH: Two orders of magnitude greater.

2 CALEPA SECRETARY LLOYD: Yeah.

3 MS. TRGOVCICH: It's where the sampling event
4 occurred and how the results were reported, and the
5 detection method used.

6 So, moving to the results. So the confirmation
7 sampling, if we want to call it that, of the post-2001
8 removal that was done. This first slide, what I tried to do
9 was break out the areas that were below the cleanup goal
10 established for the site, and above. So this first slide
11 represents the areas that achieved the cleanup level. So
12 you'll see -- in a few minutes I'll put a map, and you'll be
13 able to, be able to locate some of these areas. But all of
14 these areas, these buildings located on the Midway Village
15 project itself, you can see the concentrations. At three to
16 five feet we're at .0057 to .128.

17 I'd like to point out we're now expressing our
18 results as benzo(a)pyrene equivalents, because the science
19 has changed, our methodology now works at that BAP
20 equivalency. So I apologize for the apples and oranges
21 here, but it's the way we now present the data. And
22 remember, our cleanup level was .9 milligrams per kilogram.
23 So we have building 23, two and a half to five feet our
24 highest detection, .286. You can run down the list.

25 In the next slide we've identified the areas that

1 exceeded the cleanup level of .9. So an area between two of
2 the buildings, 31 and 32, at a depth of five feet, we found
3 concentrations up to 13.6. Between buildings 33 and 34, at
4 a similar depth, we found concentrations of up to 21.9.

5 Once again, with that reference point being the .9
6 milligrams per kilogram.

7 So these areas, and this is as big as I could get
8 them to have on the, on a sheet of paper, but they are in
9 the, I believe the left-hand side of, of the map that you
10 see up there, the areas in between these buildings. These
11 are the areas that currently still have deed restrictions on
12 them. So we have recorded deed restrictions because
13 contamination does remain at depth on this site. And that's
14 for the areas along that, the left side of the screen, and
15 the deed restrictions have a no dig requirement. You cannot
16 dig there. And they also require the San Mateo County
17 Housing Authority to maintain the capped areas.

18 We inspect all of our deed restricted sites
19 annually. We just conducted our, our inspection for this
20 site a couple, two, three months ago, and as a result the
21 San Mateo County Housing Authority is making repairs to
22 existing cracks that exist in the asphalt and concrete
23 surfaces at the site.

24 I'd like to briefly talk about the air monitoring
25 that was conducted.

1 CIWMB CHAIRPERSON MARIN: I'd like to -- just
2 to make sure. This is public housing, it's not --

3 MS. TRGOVCICH: Correct. This is public housing.
4 Correct.

5 CIWMB CHAIRPERSON MARIN: And people are living
6 in those areas that are restricted?

7 MS. TRGOVCICH: Yes, they are. The contamination
8 is at depth. Yes.

9 CIWMB CHAIRPERSON MARIN: Does she live in one
10 of those areas that are restricted? The question is, is
11 what building do you currently live in, if you wouldn't
12 mind?

13 CALEPA SECRETARY LLOYD: Could you put,
14 put your spot on the map where you live there.

15 MS. TRGOVCICH: Can we go back to the
16 map? Thank you. She's Cypress Lane on the left. Correct.
17 Right there.

18 MS. DOWNING: Right, right there, on one of
19 those --

20 CIWMB CHAIRPERSON MARIN: That's where you
21 live?

22 MS. DOWNING: I live right there.

23 MS. TRGOVCICH: Thirty-two, 33, 34, and 35.

24 MS. DOWNING: Right next to the PG&E property,
25 that's where I live. And my concrete, my concrete, because

1 it's all concreted, is cracked everywhere and nobody has
2 come to, to check my cracks, like, like this lady is
3 alluding to.

4 CIWMB CHAIRPERSON MARIN: What about the other
5 lady? Okay. I was just asking where these wonderful ladies
6 live. Can you show us where you live?

7 MS. TANNER: I live kind of like up on the hill,
8 like -- I can't read maps very well. On Brandon. I'm up on
9 the hill, like -- up. Yeah, I'm closer to the park. Yeah,
10 on the top of the hill. Okay, you know where the park is?
11 Okay, the park, I'm up. Uh-huh, I'm there. So I'm getting
12 it from the park.

13 CALEPA SECRETARY LLOYD: You're closer to
14 the park, or --

15 MS. TANNER: Yeah, I'm closer to the park.

16 (Parties speaking simultaneously.)

17 MS. TANNER: Yeah, the top, on the top of the
18 hill. Okay, you know where the park is?

19 MR. ARRIETA: Yeah, here's the park.

20 MS. TANNER: Okay, there's the park. I'm up.

21 MR. ARRIETA: This way.

22 MS. TANNER: Yeah, uh-huh. So I'm getting it from
23 the park.

24 CALEPA SECRETARY LLOYD: And how many
25 people live there altogether? The whole complex.

1 MS. TRGOVCICH: I don't, I can't answer that
2 question. Perhaps -- do you know how many people live at
3 the complex overall? She mentioned approximately 700,
4 perhaps.

5 CALEPA SECRETARY LLOYD: Seven hundred.

6 And how many --

7 MS. TRGOVCICH: One hundred and fifty units.

8 CALEPA SECRETARY LLOYD: How many other

9 people there feel the way you do?

10 MS. DOWNING: We recently had a, a meeting with
11 the, with the manager of HUD, and a lot of the community
12 showed up. And most of the people have the same concerns,
13 and the, the -- Mr. Salmeron, he was just shrugging
14 everything off. And we just felt so, you know, ignored,
15 basically, because, you know, it's like he was just laughing
16 at our symptoms and the things. And Mary brought up how she
17 can't breathe and she chokes in the morning, and he was,
18 like, that's just allergies, Mary, you know, and just making
19 a big, a big joke about it.

20 CIWMB CHAIRPERSON MARIN: Can I -- the people,
21 do they live on that yellow area, or do they live --

22 MS. DOWNING: No, that's just one court. That's
23 the, the most highest contaminated court. That's where I
24 live. All of the other people live, all of the other people
25 live in the other areas, all in, all those different units

1 are inhabited by people.

2 CIWMB CHAIRPERSON MARIN: Okay.

3 MS. DOWNING: Yeah.

4 CIWMB CHAIRPERSON MARIN: Okay. Now, let me
5 just ask you for, if you can, estimate, we'll probably get
6 the figures -- but of the highlighted area, how many people
7 do you think live in that highlighted area?

8 MS. DOWNING: You know, maybe 40 people.

9 CIWMB CHAIRPERSON MARIN: Okay.

10 MS. DOWNING: At least 40 people, yes.

11 CIWMB CHAIRPERSON MARIN: Thank you very much.

12 Thank you for being here.

13 CALEPA SECRETARY LLOYD: Who's the local
14 representative? Who are the local political representatives
15 for this area? Leonard, do you know?

16 DTSC ACTING DIRECTOR ROBINSON: I think the -- the
17 supervisor is Adrian Tassir.

18 CALEPA SECRETARY LLOYD: But who's the
19 representative in Sacramento?

20 MS. TRGOVCICH: Senator Speier was involved in
21 this project a number of years ago.

22 CALEPA SECRETARY LLOYD: Okay. And then
23 the Assemblyman, or woman?

24 MS. TRGOVCICH: I'm not, I don't know. We could
25 certainly provide you with that information.

1 CALEPA SECRETARY LLOYD: Fine.

2 MS. TRGOVCICH: Okay. If it's all right --

3 WORKING GROUP ALTERNATE MEMBER DENTON: Can, can I
4 -- this is Joan. Can I clarify for myself. Now, which is
5 the no dig zone? Is it all around, is it all around where
6 the, where -- is it the whole area?

7 MS. TRGOVCICH: It's the -- see the buildings
8 highlighted in yellow up there? So it's, it's along Cypress
9 Lane. In fact, I think -- let me -- that's what happens
10 when you bring too many papers to these meetings. I had
11 actually -- I'm going to pass this around. We just --

12 CALEPA SECRETARY LLOYD: Well, we, you
13 just said that you were coming from integrated waste.
14 Reducing paper is a high -- it's just consistency, please.

15 (Laughter.)

16 MS. TRGOVCICH: Okay. I changed direction here.
17 I changed departments.

18 I'm going to pass around a piece of paper. What
19 we did, I know this looks very crude, but we took that map
20 that you see up there and we colored in the areas of deed
21 restriction. So the park, remember I said what we did was
22 we excavated the top two feet of the park, so what's below
23 that may be contaminated, so we deed restricted the park.
24 We have many sites, many parks with -- that are deed
25 restricted for that very reason. And then we have a deed

1 restriction on some of the units that we just discussed.

2 And I'm going to pass this around, and you can
3 take a look at that.

4 WORKING GROUP ALTERNATE MEMBER DENTON: When you
5 say it's no dig, does that mean they can't dig, put a little
6 plant in? I mean, there's no, absolutely no digging.

7 MS. TRGOVCICH: Most of the landscape is -- would
8 actually be in containers, potted plants, whatever.

9 WORKING GROUP ALTERNATE MEMBER DENTON: Okay.

10 MS. TRGOVCICH: But there is a provision generally
11 in all, at all of our deed restricted sites, where if you do
12 anticipate the need, and for example, at the PG&E site,
13 which has a deed restriction, there are certainly occasions
14 when they are going to have to dig at that site. For
15 example, they are putting in a new transmission line at the
16 PG&E, at the yard there adjacent to Midway Village, and so
17 they've had to go into the dirt. The deed restriction
18 requires that they notify us within X number of days, and
19 then they must submit a, an excavation plan, if you want to
20 call it that, and we must approve that. Because there are
21 sites everywhere where you -- there are always going to be
22 instances where you need to be able to do work in the soil.

23 I'd like to point out that these particular PAH
24 compounds are very immobile, so we do not see these move
25 within the soil structure itself.

1 CIWMB CHAIRPERSON MARIN: Mr. Chair.

2 You ask the, the PG&E and the other companies to
3 notify you after they've already --

4 MS. TRGOVCICH: No, before. There's a
5 notification requirement in advance, and they must submit a
6 plan to us to show us what work they're actually doing.

7 CIWMB CHAIRPERSON MARIN: And then it is your
8 job, then, to notify the surrounding communities?

9 MS. TRGOVCICH: To -- we would approve the plan.
10 And in the case of this transmission line, yes, we did send
11 a notification letter of the work to be conducted.

12 CIWMB CHAIRPERSON MARIN: So did that advise
13 people that during those days they should try to keep
14 indoors, or --

15 MS. TRGOVCICH: We did not, in this particular
16 case we did not believe that that was necessary.

17 CALEPA SECRETARY LLOYD: You mentioned
18 that you've got a number of these plants throughout the
19 state. How many are you talking about, these gas
20 manufacturing plants?

21 MS. TRGOVCICH: We probably are working on right
22 now about 40 of them. There are probably, I'm going to
23 guess several hundred.

24 CALEPA SECRETARY LLOYD: Okay.

25 MS. TRGOVCICH: And these are not, I'd like to

1 point out, the only source of PAHs.

2 WORKING GROUP ALTERNATE MEMBER DENTON: Can I ask
3 if the concern about digging is that it will, these
4 particles become airborne? Is that the issue with this?

5 MS. TRGOVCICH: The concern is that the soil be
6 managed properly, so that if you're going to be excavating
7 in the contaminated soil that you manage it properly.

8 WORKING GROUP ALTERNATE MEMBER DENTON: Okay.
9 Now, is the -- but to manage it, you're trying to manage a
10 risk, and I'm trying to get what the -- is the risk from --

11 MS. TRGOVCICH: Trying to ensure that the soil is
12 not inappropriately disposed of, taken offsite and just
13 dumped somewhere. We want to make sure that when it's
14 excavated it's handled properly, and that if it's going to
15 be put back in, whatever the plans are, we must take a look
16 at that and make sure that's okay. There is, is not a
17 concern in this particular case in terms of that airborne
18 factor with the transmission line.

19 WORKING GROUP ALTERNATE MEMBER DENTON: So it's
20 not a risk necessarily of airborne particulate to the
21 residents from the digging. It's the soil, to make sure
22 that it's placed in the appropriate --

23 MS. TRGOVCICH: Right, and not just moved off
24 somewhere and inappropriately disposed of.

25 CALEPA SECRETARY LLOYD: But there was no

1 agency such as yours around when it was, in fact, put on
2 this site in the first place.

3 MS. TRGOVCICH: Absolutely. When it was spread
4 from the former manufactured gas plant site onto Midway
5 Village back in the fifties, no, we were not here. And I am
6 not aware of another agency that would have been required at
7 that time to approve of that activity.

8 WORKING GROUP ALTERNATE MEMBER DENTON: Once more,
9 is there a risk, then, of the individuals on the property if
10 it's immobile, if it's not -- if it doesn't become airborne
11 when it's moved?

12 MS. TRGOVCICH: We believe that at Midway Village,
13 that the existing, the work that has been conducted is
14 protective of the residents at that location. We believe
15 there is no exposure pathway. We believe that the
16 contamination remains at depth. And if I could just briefly
17 describe the air monitoring that was conducted, because we
18 did receive, and continue to receive, concern regarding what
19 is in fact airborne. And some of your questions have, in
20 fact, been focused on that airborne aspect.

21 And so the community requested that we do
22 additional air monitoring, and so back in 2002, we undertook
23 a sampling effort, and I'd like to point out that we did
24 this in conjunction with the Indoor Air Quality Section at
25 the Department of Health Services and the Indoor Exposure

1 Assessment Section at the California Air Resources Board.
2 So they looked at the plans and they looked at the
3 subsequent reports that were prepared by the contractor as a
4 result of the sampling events themselves, and the results.
5 And so they were consulted both on the front and the back
6 end.

7 We looked at five vacant apartments. And a lot of
8 people say why did you look at vacant units, why don't you
9 look where people live. And the problem is getting back to
10 that issue of where PAHs come from, and they are so
11 prevalent that the interference that would exist in an
12 indoor unit from other potential sources, we could not
13 possibly be able to screen that out or distinguish between
14 the PAHs coming as a result of the manufactured gas plant
15 contamination that remains, versus PAHs that are generated
16 as a result of our everyday activities, and so we picked
17 vacant units. We looked at nearby schools, the Midway
18 Village Housing Center, and the Bayshore Childcare Center.

19 And when we, as a result of that sampling, moving
20 to the next slide, what we found -- and once again, our
21 files are open and this information is available to anybody
22 that would like to look at it -- is that all concentrations,
23 both indoor and outdoor, were at or below the mean
24 concentrations found in the California Air Resources Board
25 studies. And I'd like to point out that I believe the Air

1 Board did two studies -- and I apologize, I do not have the
2 dates with me -- where they looked at regional background
3 for PAHs. And we compared our results to both of those
4 studies that were conducted, and we found that these
5 concentrations were at or below those found in the two ARB
6 studies.

7 In most locations, the indoor results for some of
8 the non-carcinogenic PAHs were greater than what was found
9 outdoors, but they were still below the levels found in the
10 ARB studies, and that the concentrations that were found as
11 a result of both the indoor and the outdoor sampling events
12 were below the USEPA preliminary remediation goals for air.

13 CIWMB CHAIRPERSON MARIN: Let me ask you this.
14 Is there a -- have you done or conducted any studies that
15 show that the health of the community as a whole, is it
16 better, the same, worse than California as a whole? Have
17 any health studies been done for that particular area?

18 MS. TRGOVCICH: We have not looked at the health
19 of the community. It would be a very difficult thing to
20 undertake, because you're looking at a whole variety of
21 potential impacts that may be completely unrelated to the
22 manufactured gas plant situation. The ATSDR did look, come
23 in and provide, I believe, health consultations for the
24 community back in the late nineties, and we could certainly
25 go back and pull the full range of the information prepared

1 by ATSDR as well as their recommendations and provide those
2 to you, if you would like. But once again, I do not believe
3 that they did the comparison, either.

4 On the --

5 CIWMB CHAIRPERSON MARIN: By the -- I'm sorry
6 -- because I would think that in some areas are EJ
7 communities are really impacted, we see very specific --
8 levels increase, you know, higher than the average
9 California communities. I see that that's a known fact. So
10 that's my point, is, in fact, some of this attributed to the
11 location, the geographic location. I think that we -- and
12 this is -- we don't know, I don't know what caused your
13 conditions, your medical conditions. I don't know that
14 anybody can really specifically -- but I don't know that we
15 can conduct a study that would pinpoint the gas location as
16 the reason for your condition.

17 I wish we could find something, but I don't know
18 that we have the science that will lead us to that. I'm
19 trying to pose to find out if, in fact, what science could
20 tell us, but it seems to me what I'm hearing is that, that
21 we can't get that. Right?

22 MS. TRGOVCICH: It's not something that we have
23 done. Certainly, there are health assessments that have
24 been undertaken by communities in different areas. That is
25 not something that has been done here. I'm not sure who's

1 conducted those assessments.

2 ARB DEPUTY EXECUTIVE OFFICER TERRY: On a related note,
3 because the cleanup levels, you've talked only about cancer
4 risk, essentially, and not at all about other benchmarks
5 that, you know, Dr. Denton can speak to. But it might be
6 helpful to mention what those levels, reference type levels
7 would be for PAH for non-cancer health effects, because
8 those levels are generally much, much higher, and that does
9 give you some sense of what you're trying to get at in terms
10 of are there health effects other than cancer risk.

11 MS. TRGOVCICH: Right. Because you want to be
12 able to avoid, you're looking at a hazard index when you
13 talk about the non, non-cancer aspects. And what you want
14 to make sure and, and that is very correct that those levels
15 are generally much higher, because you're looking at those
16 effects that would be caused.

17 I do not know in this particular case what that
18 is, but I can certainly provide that information to you.

19 ARB DEPUTY EXECUTIVE OFFICER TERRY: I think there's a
20 brief mention of it in your fact sheet, on the last page.

21 CALEPA SECRETARY LLOYD: I think that's a
22 very good point, because I think we can look, if you like,
23 clinically, in an abstract way, about the levels. On the
24 other hand, it's a very different thing to be living in the
25 community, you know, being exposed to that, and we don't

1 know everything that's going on. So I think that's a very
2 important aspect of that.

3 MS. TRGOVCICH: So in terms of our information
4 regarding Midway Village, what I tried to do is provide you
5 with a very brief history of the site, but focus more on,
6 from a scientific standpoint, the efforts that we made in
7 our cleanup actions, the efforts that we made with respect
8 to the local representatives back in 2000 to look at the
9 possibility of relocation that was mentioned earlier today.
10 You have a copy of that letter from the San Mateo County
11 Housing Authority. There were also efforts made, it's my
12 understanding, at the local level through Senator Speier's
13 office to possibly look at medical assistance. I don't know
14 that the senator's office, you know, how that effort was
15 ever pursued.

16 But the community's concerns of relocation, of the
17 medical aspect, potentially compensation or something, that
18 the department believes that are outside of the scope of our
19 efforts to be able to bring about a remediation that we
20 believe is protective of the community that's present. We
21 believe that the efforts that we've undertaken have
22 eliminated those exposure pathways, and that it is -- the
23 cleanup ultimately is protective.

24 WORKING GROUP ALTERNATE MEMBER DENTON: The letter
25 that we have offering other housing to these people is

1 dated, I think, 2000. Is that still a standing offer, do
2 you know, or is that -- I mean, that's quite a while ago.

3 MS. TRGOVCICH: I, I don't know. I was asked to
4 take a look at how many residents may have taken up that
5 offer, and it's my understanding that very few, if any. One
6 resident, one took advantage of that offer. I'd like to
7 point out that it, the distinction here is that what the
8 residents were being offered was a similar housing
9 situation. So if it was rental at Midway Village, it would
10 be rental elsewhere.

11 CIWMB CHAIRPERSON MARIN: Now, how do we make
12 sure that, in fact, if there were -- there are these cracks,
13 that BPSD goes out there and checks them on a yearly basis
14 and covers them. Is there any way that we could have, if in
15 fact the cracks may appear more frequently than once a year,
16 is there, is there a thought about going and checking this
17 out maybe every six months?

18 MS. TRGOVCICH: We, we could certainly,
19 absolutely. We could increase our inspection frequency.
20 We, we are also in dialogue. I'm, I'm not quite sure what
21 the current status is, but there is a tenants' association
22 there, and it's possible that the tenants' association could
23 be involved to a greater extent. I know we did see members
24 of that association when we were out on our inspection
25 several months ago. There are options.

1 But I would like to point out that at the last
2 CEJAC meeting that was held, I believe that one of the
3 former community members, LaDonna Williams, brought forward
4 a letter that she received from, I believe it was the County
5 of San Mateo, and what she had was actually the document
6 showing that they were awarding the contract for the repair
7 of the cracks and cap issues that we observed in our prior
8 inspection. And I don't believe that that work has actually
9 been undertaken yet, because I believe the contract was just
10 awarded.

11 CIWMB CHAIRPERSON MARIN: Well, I would think
12 that DTSC would take a look at whether that is, in fact,
13 sufficient, if in fact some of this work needs to be done.

14 MS. TRGOVCICH: We'll certainly go back. What I
15 can do is look at the past inspections that we have done and
16 determine -- if we're, if we're seeing the same types of
17 things repeating themselves, we can certainly increase our
18 inspection frequency.

19 WORKING GROUP ALTERNATE MEMBER DENTON: There's
20 one thing that's still not clear to me. What is it that the
21 residents want? Do they want to be moved? Because I
22 thought that was an offer to move them.

23 MS. TRGOVCICH: I do not want to speak for the
24 residents, and so I would ask the residents to come forward.

25 MS. DOWNING: First of all, I just wanted to just

1 answer some of the things that this lady was talking about
2 when she talks about in depth, and they talk about these
3 chemicals as being so common as barbecue and tobacco and
4 auto exhaust fumes. In the eighties, when we first found
5 out that, that this stuff was in the soil, when they were
6 digging these ditches, my kids were toddlers then. They
7 used to play in the dirt. We only found out there was
8 something wrong because we saw men in space suits.

9 When finally we had a, a meeting with DTSC, and I
10 don't know who else, Environmental Protection Agency, I
11 personally asked the committee if this is so non-hazardous,
12 then why are you telling -- they were saying we should keep
13 our kids inside, don't let them play outside, and bathe them
14 three times a day. Now, if this dirt, like she's saying, is
15 so harmless, why, why -- how, how do you bathe a toddler
16 three times a day when it's hard enough to bathe them once?
17 I had three of them at the same time. But they're telling
18 me don't let them play outside.

19 The only way that I found out that there was
20 something, you know, there was toxin, I had to go directly
21 to the then head of the housing there, that was managing the
22 housing at that time, and I asked him directly, point-blank,
23 why didn't you tell me that this soil was contaminated, I
24 wouldn't have let my kids play in it, eating it and
25 everything. He said my hands were tied, I could not say

1 anything. We weren't supposed to tell the residents
2 anything.

3 But it continues, I continue to hear harmless.
4 Nothing, you know, you don't breathe it in. I'd like to see
5 this person that did this study just live on my court, and
6 live on there for 30 years and see what kind of symptoms she
7 gets. Well, maybe, like Ms. Marin said, well, she can't,
8 you know, say that my symptoms and my, my illness, and that
9 I have a depressed immune system, that I sometimes think
10 that I have AIDS, is not related particularly to all these
11 chemicals. But if you go and do a study and break them each
12 down, which I have a document that tells me each chemical
13 that's underneath my, my house, and I, I'm displaying all
14 the symptoms of each one, and it's not because I read it
15 because I've had them before then.

16 And so I don't know how you can sit here and say
17 well, you want people to continue to be an experiment, and a
18 little, a little rat here, until, you know, maybe I'm dead,
19 or maybe everybody else is dead, and then you can prove, oh,
20 yeah, well, they were right, you know. We should've
21 relocated them. Well, you know what, that's not fair.

22 CIWMB CHAIRPERSON MARIN: Why is it that you
23 didn't take the offer to relocate?

24 MS. DOWNING: Because they, they didn't, we, we
25 didn't -- they didn't give us any input what, what we

1 wanted. They were just shoving things in our face and we
2 didn't feel that that was acceptable. That wasn't --

3 CIWMB CHAIRPERSON MARIN: It was more
4 acceptable to stay.

5 MS. DOWNING: No, it wasn't acceptable to stay.
6 It was, it wasn't acceptable to move to, to another, to be
7 moving from here to there, from here to there, because I was
8 too -- I was too sick to do that.

9 WORKING GROUP MEMBER: So you rent your location?

10 MS. DOWNING: Yeah, I rent my location, yes. I
11 rent my location. But if I was going to move I wanted to
12 move, and I wanted to be permanently moved somewhere. I
13 didn't want to have to be moving, because I'm too sick, and
14 I have a handicapped daughter with all this equipment. I
15 cannot be moving from place to place to place. And I felt
16 that somebody should be liable for exposing me knowingly to
17 all these, all these contaminants, and my children, which
18 all of us are affected, and why is it that we were just
19 going to be offered something that was not acceptable and
20 you didn't ask me whether I wanted that or not.

21 CIWMB CHAIRPERSON MARIN: No, I didn't ask you.
22 I --

23 MS. DOWNING: No, I didn't say you. I'm talking
24 in general. Another issue is that, you know, whenever
25 they're talking about that they, they let us know when

1 things are going to be cleaned up, the last time they were
2 going to, they were cleaning up -- right next door to my
3 unit there's a little grassy area right there, okay, and
4 they were, they dug there, and they took out tons of drums
5 with all this black sludge coming, you know, getting out of
6 there. You know what they told us to do? To cover our
7 windows with plastic and duct tape.

8 Now, how are we supposed to breathe while we're
9 inside with plastic and duct tape? But that was, that was
10 the remedial, you know, solution. What's the sense in, in
11 doing that, you know. We breathe it in all the time
12 anyways. And then, and then in the eighties there's a
13 document that PG&E, actually DTSC allowed PG&E to, to, you
14 know, to do their own testing. And the, the VOCs came out
15 to be 562,000 ppm. VOCs are in the air. VOCs are in your
16 lungs. VOCs are on your skin. VOCs, you breathe. I have
17 an, I have an 18-year old daughter that can't breathe, and
18 every time she's talking to you, she's a beautiful girl but
19 she's got to stop every other minute to take breaths like
20 that. But she doesn't have asthma and she doesn't have, and
21 they don't know what's wrong with her.

22 CIWMB CHAIRPERSON MARIN; So let me ask you
23 this. Going back to the question. If you didn't take the
24 offer because you didn't want to move at that time, or --
25 now you want to move, so if this offer still stands, why

1 wouldn't you take it now?

2 MS. DOWNING: I didn't say I didn't take it now.
3 It hasn't been offered to me.

4 CIWMB CHAIRPERSON MARIN: So if they --

5 MS. DOWNING: It has not been offered, nothing,
6 no --

7 (Parties speaking simultaneously.)

8 CIWMB CHAIRPERSON MARIN: -- if they --

9 MS. DOWNING: -- nothing, no, there has no --
10 nothing's been offered to us.

11 CIWMB CHAIRPERSON MARIN: Does anybody know if
12 in fact the offer stands? Maybe we need to figure that out.
13 Because in fact these people, they just want to move, but
14 they -- I don't know why the offer was rescinded. Maybe we
15 can --

16 MS. DOWNING: But it's just sad to hear, you know,
17 all these wonderful documents and, you know, all these
18 things that this lady's saying about how harmless everything
19 is, and it's in depth, and, you know, and they're protected.
20 But, you know, psychologically, it does something to you.
21 And I'm sure that none of you would like to sit on top of
22 all these nasty things and raise your, your children there.
23 Even though if we can't prove, and like you're saying, well,
24 you wish that you could tell me whether or not this is
25 really related.

1 CIWMB CHAIRPERSON MARIN: I, I can't do that.

2 MS. DOWNING: Yeah. Well, I know you can't, but
3 I'm just saying that we -- we should be more empathetic,
4 because --

5 (Parties speaking simultaneously.)

6 MS. DOWNING: But the whole, the whole community,
7 the whole community, though, suffers from -- we all have
8 similar things. Every, everybody's suffering, whether from
9 cancers or this or that.

10 CIWMB CHAIRPERSON MARIN: We can only do what
11 we can do. We're trying to be sympathetic with you. I
12 appreciate, let me tell you, I also have a disabled child.
13 I appreciate what you're doing. I appreciate the work that
14 you have had to go through in trying to figure out what you
15 can do to better your family. You are not going to find
16 anybody more empathetic than me right now.

17 MS. DOWNING: Okay.

18 CIWMB CHAIRPERSON MARIN: But let me tell you
19 this. There are only certain things that we can do. We are
20 really, as a committee, to try to figure out if you in fact
21 have an option to move. We're going to do that now.

22 MS. DOWNING: Okay.

23 CIWMB CHAIRPERSON MARIN: Okay.

24 MS. DOWNING: And I wanted also, on behalf of
25 LaDonna, to direct Dr. Lloyd, since she couldn't be here,

1 she's in Oakland, she wanted me to directly ask you and beg
2 you to please intervene for us and just the same as you did
3 for the -- I don't know that other project, I think it's
4 called Depeca, or something -- Jamaica site, that Sherri
5 Pagett raised those, those issues. She's a lady that, that
6 suffered cancer because she was working in the university,
7 and these other people are going through these things, and
8 want, we would --

9 CALEPA SECRETARY LLOYD: Seneca. Okay.

10 MS. DOWNING: Seneca.

11 CALEPA SECRETARY LLOYD: Yeah. Yeah,
12 Seneca. Okay.

13 MS. DOWNING: And so she wanted me to relay this
14 message to you and, because she couldn't be here, and if you
15 could please intervene and, and intervene for this
16 environmental injustice that we're suffering.

17 CALEPA SECRETARY LLOYD: Well, I, I
18 think, again, I couldn't, I couldn't top what you heard from
19 Chairwoman, Chairwoman Marin, believe me. I worked with her
20 when she was in her district, she had La Mataya, a site down
21 there, and I know that she was speaking really from the
22 heart. So you have our commitment. You have my colleagues'
23 commitment here. You've got our attention. We will do
24 whatever we can to address this issue. And including
25 looking at whether the, the offer still stands and helping

1 you out. So let me assure you that your visit today, your
2 journey over has not been in vain. We will follow up, we
3 will get you some answers. Whatever we can do. We have
4 limits, but we're going to do whatever.

5 And clearly, it's easier for us to raise some of
6 those questions with people in power than it is for you.
7 And as I said earlier, unless we walk in your shoes, living
8 there, we understand that, and that's, that's a tough issue,
9 but you've made a significant impression. Not to diminish,
10 by the way, what DTSC is trying to do. Remember that they
11 have this throughout the state. I remember taking on with
12 the Air Resources Board and with Lynn and Linda's help, and
13 Shankar, when we had Diane with a, with a site down in San
14 Diego. It turned out that the community there was saying
15 they were having problems. Nobody believed them initially,
16 until ARB went in and did that.

17 So we will, we will get back to you.

18 MS. DOWNING: Well, we would appreciate that,
19 because we don't, we don't, definitely don't want you to
20 waste anymore money on coming to patch up my cracks in my
21 back yard, which I have thousands of them, because that's a
22 waste of money. And I don't want to sit on that stuff
23 anymore.

24 CALEPA SECRETARY LLOYD: Well, Leonard,
25 do you have any other -- we're going to, we're going to

1 follow through on Chairwoman Marin's comments here, and --

2 MS. DOWNING: Thank you very much.

3 CALEPA SECRETARY LLOYD: -- request that
4 we -- well, thank you very much.

5 DTSC ACTING DIRECTOR ROBINSON: No further
6 comments, unless somebody had questions of Caren. We're
7 open to any suggestions that, that you have.

8 CALEPA SECRETARY LLOYD: Well, well, one
9 of the things I would like to suggest, in addition to this,
10 if you like, fast track action, to get some real answers and
11 to see what the options are, that maybe we can, we can get a
12 group together with maybe under the guidance here of OEHHA,
13 to try to look at that. And that's not to supplant what
14 we're talking about fast track action, but also to get to
15 the, to some of the scientific data here and report back to
16 us. Oh, it's on the board? Okay. Something, that's a
17 suggestion there.

18 By the way, just as an aside, and I will say this
19 without commentary, but it is, it does get a bit
20 disconcerting to me as we've dealt, and as I've looked at
21 the number of sites involving PG&E throughout the state,
22 sort of a disconcerting, but -- since we have one down
23 south, as well.

24 So any comments?

25 DTSC ACTING DIRECTOR ROBINSON: We just thought it

1 was important, we just thought it was important that the IWG
2 and the interested communities saw that DTSC did everything
3 within DTSC's purview, and, again, that we, we stand open to
4 recommendations. We understand the community's frustration.
5 They want relocation, they want medical, they, they want
6 compensation. That, that's, you know, we cannot do that.

7 CALEPA SECRETARY LLOYD: But I think we
8 can assist them in getting the answers that they deserve.
9 Including working with the local politicians there, as well,
10 so.

11 CIWMB CHAIRPERSON MARIN: And certainly working
12 with HUD. It was HUD that, that built this housing.

13 CALEPA SECRETARY LLOYD: You probably
14 have, have contacts there --

15 CIWMB CHAIRPERSON MARIN: I know Mr. Jackson
16 personally, so I can do that.

17 CALEPA SECRETARY LLOYD: Great. So in
18 terms of the action items, when will we -- let's, let's get
19 back so we have some timeframes here to get back to the
20 community.

21 On this issue? Okay. We're on a very high note,
22 positive note, as long as you --

23 (Laughter.)

24 MS. TAKVORIAN: Did you think that I would do
25 something else? That I'd fall into my chair? Yeah, that's

1 not my problem.

2 No. The one thing I wanted to raise, because it
3 didn't seem like it got raised, is that the CEJAC did write
4 a letter to HUD, and I wanted to be sure that everyone knew
5 that, and asked HUD to investigate what the options are for
6 alternative housing arrangements for the residents of Midway
7 Village. And Dr. Prasad told me that you all received,
8 previously received copies of that letter, so I wanted to be
9 sure that you know that, and that if you needed copies that
10 I'm sure we could get those to you.

11 But I think if the IWG would do something to
12 reinforce that letter, one, that I just wanted you to know
13 that we started that ball because the CEJAC felt very
14 strongly about it.

15 CALEPA SECRETARY LLOYD: When was the
16 letter sent?

17 MS. TAKVORIAN: Early October.

18 CALEPA SECRETARY LLOYD: Three weeks ago.

19 MS. TAKVORIAN: Three weeks ago. Yeah. So, and,
20 and I think it was strongly felt on the part of the
21 committee, in the same way that you're expressing, that we
22 want to do something. And I, I think without comment on
23 what DTSC has done or not done, it was, okay, so then what
24 else can we do. How can we get folks removed from a
25 situation that's clearly stressful and clearly, if it isn't,

1 if they aren't exposed now, they clearly were. So how can
2 we bring some remedy there.

3 So I, I know that many members of the CEJAC who
4 have technical expertise are very willing to work. So
5 whether it's on a panel to, to review scientific
6 information, I think it's more about who can we meet with at
7 HUD, at the local regional level. Who can we meet with in
8 DC. I mean, I think the CEJAC folks are willing to take
9 action and get something done. So I just wanted to let you
10 know that. So hopefully that --

11 CALEPA SECRETARY LLOYD: But I also think
12 we should take you up on your offer.

13 MS. TAKVORIAN: Yes. No, absolutely. Thank you.

14 CAL/EPA DEPUTY SECRETARY DR. PRASAD: I just want to,
15 CEJAC had a specific recommendation saying that there should
16 be a public meeting with you. And at this point I don't
17 think it really makes any sense to have that then, since
18 it's not, it's almost a --

19 CALEPA SECRETARY LLOYD: Well, I think
20 particularly in terms of, of today, what we, what we're
21 talking about is action, not words. And so I think we've
22 got two, two concrete action items to supplement what, what
23 you're doing with the, with the letter. And we'll follow up
24 on that, that piece of it. And then if, if Joan will be
25 willing to take, take the lead on the suggestion. And my

1 only suggestion there is, those of you who know me, I don't
2 think -- I'd like to say report back in two months. We
3 can't, it shouldn't take three to four months. Two months.

4 OEHHA DIRECTOR DENTON: Those of us who know
5 you are not surprised, Dr. Lloyd.

6 CALEPA SECRETARY LLOYD: Well, this is an
7 urgent issue. And, well, yeah, I work for a boss, the
8 governor, who says he wants action.

9 OEHHA DIRECTOR DENTON: Right. He says
10 action, action, action.

11 CALEPA SECRETARY LLOYD: Yeah. We don't
12 want to, we don't have three to four months. Three to four
13 months to them is a long time, so -- two months.

14 OEHHA DIRECTOR DENTON: And then just to say
15 for OEHHA, that, that we're, we'll be, we're willing to take
16 this responsibility. And, and just so that we're kind of
17 clear, what's expected would be that we would basically look
18 at the scientific underpinnings of, of the cleanup level
19 that, that DTSC has --

20 CALEPA SECRETARY LLOYD: Well, also, but
21 I think also address the, the point that Lynn made, that
22 it's just not limited to the cancer level, we should take a
23 look at the other pieces there.

24 OEHHA DIRECTOR DENTON: The non-cancer, as
25 well. Uh-huh.

1 CALEPA SECRETARY LLOYD: And maybe, if
2 we're -- we're going to see whether there are other people
3 there with some, some negative --

4 DTSC ACTING DIRECTOR ROBINSON: I think a holistic
5 approach, not only the scientific, but the community
6 participation, the public participation part of it, to find
7 out, you know, why at the particular time there was no
8 offer, or the offer wasn't taken to relocate, find out if,
9 why a medical clinic was offered then taken away, some of
10 those things. I think a holistic approach. All the DTSC
11 documents, as with all our cleanups, are, are open public,
12 the public can access it, so it's there. But I think a
13 holistic approach.

14 OEHHA DIRECTOR DENTON: Now, are you speaking
15 of a holistic approach for this? Is that what -- that
16 you're --

17 DTSC ACTING DIRECTOR ROBINSON: Just, not, you
18 know, again technical is good, but then, you know --

19 OEHHA DIRECTOR DENTON: We're technical.

20 DTSC ACTING DIRECTOR ROBINSON: -- you've got the
21 people, I think that -- I think with the make-up you're
22 going to have the CEJAC members, maybe invite members of the
23 community so you'll get that holistic approach. Everybody
24 will, will come from their perspective.

25 CALEPA SECRETARY LLOYD: I think Shankar

1 worked with you, John, on that. And, by the way, I should
2 say I already checked with Val. He said this morning two
3 months was adequate.

4 OEHHA DIRECTOR DENTON: Where is that guy?
5 He's not here.

6 (Laughter.)

7 CALEPA SECRETARY LLOYD: Well, thank you
8 all. Thank you, the CEJAC as well, and thank you from
9 members here. And thank you very much for coming and
10 highlighting for us, by the way, the issues that, that you
11 face. It's been a, a very good educational thing. And
12 again, remember this is not, this was not, this was trying
13 to supplement what DTSC was doing. As you say, there was no
14 agency like yours around when this problem was started. And
15 as very often the case, you know, you have to clean up the
16 mess left by somebody else. And so that's, that's just a
17 tough issue, so.

18 DTSC ACTING DIRECTOR ROBINSON: I want to thank
19 the community, you know, for going ahead and staying for the
20 whole meeting regarding Midway, that you, you got your
21 comments across and, and you heard, you know, you heard what
22 was going on. So thanks for staying.

23 CALEPA SECRETARY LLOYD: How will we get
24 the information back to --

25 DTSC ACTING DIRECTOR ROBINSON: If we get it to

1 LaDonna, will you, will she communicate with you? Okay. We
2 have an avenue.

3 CALEPA SECRETARY LLOYD: Okay. Thank
4 you.

5 Shankar, do we move on?

6 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Yes.

7 DTSC ACTING DIRECTOR ROBINSON: Oh, also I just
8 wanted to thank Caren for her presentation.

9 CALEPA SECRETARY LLOYD: Thank you very
10 much indeed, yeah. I was worried at times whether you were
11 going to come up for air, but you did a great job. Thank
12 you.

13 Are we here now?

14 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Dr. Lloyd, the next
15 item on the agenda was the CEJAC made a recommendation that
16 adding another compound to the monitoring list, the list of
17 chemicals that are being monitored at Parlier. However, the
18 staff has some opinions that they are probably Paul will be
19 able to articulate.

20 In essence, what happened is this, originally this
21 project started in Parlier and there was a specific set of
22 compounds that were placed on the monitoring list. But
23 subsequently, the local advisory group was formed and also a
24 technical advisory group was formed, and in that, those two
25 groups together came up and considered about 28 or 30

1 compounds and came up with a list that was acceptable to
2 both of them.

3 And, however, there were some people, a few
4 individuals who felt the need that what was agreed upon at
5 the LAG or at the technical advisory group was not
6 sufficient, so it was brought forward to the CEJAC at the
7 last meeting, and they asked us to include this compound.
8 And on inquiry, both Air Resources Board and Department of
9 Pesticides have expressed some reservations both due to the
10 time and due to the lack of resources, and also concern on
11 the process in which it was brought forward.

12 CALEPA SECRETARY LLOYD: Paul.

13 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Yeah, and if I can
14 add a little bit to that. And this, kind of the issue on
15 the additional chloropicrin, which is a, one of the
16 fumigants that's used down in this area, was in addition to
17 the major focus of the project initially was a, a screening
18 method, multi-residue screening method of 25 pesticides
19 that, that are used in that area. The Air Resources Board
20 actually came in and augmented what we originally went down
21 and put forward in terms of a project, and expanded the
22 monitoring, the air monitoring considerably. And it kind of
23 came down to a couple of choices we presented to the TAG and
24 the LAG about options on sort of resources and choice of
25 chemicals, based upon what resources we had.

1 And after a lot of discussion, it was agreed to
2 that three monitoring sites instead of two, and doing it
3 three days a week was preferable to maximize the number of
4 monitoring sites. And then there was a major discussion on
5 choice, because of these choices on fumigants of single
6 residue methods was whether to go with breakdown product of
7 metcam sodium or chloropicrin. And there was a lot of
8 discussion at the LAG. There was a, a far more significant
9 amount of metcam sodium use in the area. I believe it's,
10 oh, 12 or 13 applications to two to chloropicrin, and I
11 think even from the technical group, in terms of risk, that
12 they felt that monitoring for metcam or MITC was the
13 greatest use of resources, in terms of identifying the
14 greatest risk down there.

15 Obviously, if there was more resources and, and
16 more dollars, we'd monitor for everything down there. But
17 principally, we're dealing with, with what we have. We can
18 capture the, the highest risk materials.

19 CALEPA SECRETARY LLOYD: Thank you, Paul.

20 Other discussion?

21 So you've seen the recommendation.

22 CAL/EPA DEPUTY SECRETARY DR. PRASAD: So the current
23 recommendation is not to include for this project, but to
24 consider it for the future monitoring first.

25 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: And I would agree

1 with that. And I think as part of considering chloropicrin
2 and other materials, I think we've been trying to stress all
3 along that the term pilot project is very important, because
4 as much as we're going to get out of this in terms of very
5 solid data that we can use to assess risk, we're also going
6 to learn a lot, and identify how future projects in other
7 areas are going to be expanded and other things we may want
8 to do. So this is consistent with that.

9 CALEPA SECRETARY LLOYD: So I --

10 MS. DENTON: Paul, it's my understanding there's
11 not much chloropicrin that you would expect in this area
12 anyway. Is that correct?

13 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: No. Historically
14 their hasn't. There's been around two applications in the
15 area. But I think as we've seen in future projects, and
16 this fits in, as we track high risk materials, one would be
17 of course to be able to go out and monitor for them, so.

18 CALEPA SECRETARY LLOYD: Was this the
19 material that people were deliberately exposed to in San
20 Diego sometime?

21 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: What do you mean?
22 Deliberately exposed to?

23 CALEPA SECRETARY LLOYD: Yeah.

24 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Okay.

25 CALEPA SECRETARY LLOYD: It's -- okay.

1 WORKING GROUP ALTERNATE MEMBER DENTON: It's very
2 much an irritant, isn't it?

3 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Yeah. We're in
4 the process of doing the risk assessment, but it does have
5 some other health effects, too. But principally you're
6 going to get tearing, eye irritation, upper respiratory
7 distress. So it's, it's something that -- and it's used,
8 because it's a fumigant, prone to get into air, used at high
9 ponds. So it's something that, as all the fumigants, are on
10 high priority for us in terms of risk and mitigation.

11 CALEPA SECRETARY LLOYD: What's, what's
12 it kill?

13 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Principally, I
14 think soil-borne pathogens, diseases.

15 CALEPA SECRETARY LLOYD: I'll entertain a
16 motion.

17 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: I'll move.

18 CALEPA SECRETARY LLOYD: Second?

19 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: And I move on --

20 CALEPA SECRETARY LLOYD: Okay. Somebody
21 asked -- this is a DPR.

22 WORKING GROUP ALTERNATE MEMBER DENTON: I move the
23 recommendation.

24 CALEPA SECRETARY LLOYD: Okay.

25 DTSC ACTING DIRECTOR ROBINSON: I'll second it.

1 CALEPA SECRETARY LLOYD: Okay. So

2 second.

3 Further discussion? Okay.

4 Okay. All in favor say aye.

5 (Ayes.)

6 CALEPA SECRETARY LLOYD: Any abstentions?

7 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: I'll, I'll

8 abstain.

9 CALEPA SECRETARY LLOYD: Okay.

10 Well, we just had a demonstration, by the way, on
11 this previous item, that in fact the IWG also is not
12 perfect, Joe. We skipped. And so thank you, Linda, for
13 reminding us that we were, in our zeal to get to the end
14 here, we jumped ARB. And so we'll go back to, to the ARB
15 Local Advisory Group proposal. And that's been provided, so
16 we're interested in hearing comments from the members
17 regarding the proposal. And Lynn, do you want to lead the
18 discussion on this one?

19 ARB DEPUTY EXECUTIVE OFFICER TERRY: Sure. Actually, it
20 was very heartening this morning to hear that the community
21 members were willing to come back to the table and proceed
22 with the LAG process we initiated a couple of months ago.

23 In terms of the specific proposal, I'll start with
24 the function as described. We think that was very well
25 done, and we think that can go forward as is. The other

1 aspect to the process is that the LAG meetings would be open
2 to the public, of course. That's always been the case. And
3 then with adequate public notice. And scheduling is always
4 something we struggle with. You know, there's expediency
5 versus timeframe for noticing, but, you know, we're open to
6 suggestions on what people would consider adequate notice
7 for future meetings.

8 As I mentioned this morning, we have already, we
9 have had contact with the Wilmington core LAG group that
10 expressed interest in proceeding, and so that meeting is
11 scheduled, a notice is out for November 7th. So we
12 basically have our core LAG group proceeding in Wilmington,
13 so now, in my view, the next step is to get that ball
14 rolling again in, in Commerce and Mira Loma.

15 And in terms of the proposal for a, a fairly -- a
16 very rigid structure and formal membership. We are not
17 supporting that. Instead, we'd like to proceed with
18 essentially what we're doing in Wilmington, which is we've
19 asked for volunteers, essentially. We'd like everybody who
20 is willing to, to participate in this process, to roll up
21 their sleeves and work with us, to be able to a, a member of
22 our LAG, and operate it in that fashion in a much less
23 formal way. We think that's the most effective way to move
24 quickly.

25 Peggy's point about continuity, however, is an

1 important one and a consideration. So what we'd like, and
2 our view all along on that was if we got a, a commitment
3 from individuals to work with us on this project, we would
4 certainly not exclude new people that might come to, to
5 later meetings, but we would make it clear that we would be
6 going forward and not backwards. So if we have new
7 participants in, in meetings, we would simply welcome their
8 comments but from a forward looking perspective, and not
9 rehash what had already been discussed at previous meetings.

10 So we think that we can meet the spirit and intent
11 of that with the structure that we've actually already put
12 in place for LAGs and we're carrying out in Wilmington.

13 CALEPA SECRETARY LLOYD: So you'd
14 basically use Penny's stuff and your stuff and get a sort of
15 a hybrid --

16 ARB DEPUTY EXECUTIVE OFFICER TERRY: That's right.

17 CALEPA SECRETARY LLOYD: Would that be
18 okay with you, Penny?

19 MS. NEWMAN: I really don't want you to be misled
20 that everything is hunky-dory. In Wilmington, Wilmington
21 helped sit down and develop this proposal. They support it,
22 and, and I'm sure that's going to be a part of your
23 discussion at your meeting on the 7th.

24 I think that, that what we find is that the, the
25 process that has been laid out through the ARB pilot program

1 has not expedited things, is not moving forward, not just
2 because of the MOU but because there's no structure to
3 anything. People show up at meetings. They hear comments.
4 They go back, and they do whatever they want. And I think
5 there's no accountability here. There's no real
6 participation or feeling of involvement in the process, that
7 this would provide it. I think you've got a broad based
8 representation, and I think for the protection of ARB this
9 would, would really suit them. You know, I could stack a
10 meeting with 300 people and you'd have a LAG of very
11 outraged residents.

12 We are suggesting that it not be that, that it be
13 representatives from the business area of, of the
14 communities, that we have government representatives, that
15 we have a, a broad based representation so that we can
16 really put the issues on the table and come to some
17 conclusion. This is not different than DTSC's CAGs. It is
18 no different than what we have used in public participation
19 and involvement in affected communities over and over again.
20 And I may be new to ARB, but that might help you in your
21 public relations problems that you're encountering right
22 now.

23 You don't have the best reputation at this point
24 with the people who are really directed -- directly
25 affected. I think by adopting what the communities have put

1 forward here would really be a good signal to them that you
2 are willing to listen to us and that you do want to move
3 forward in a process that is really structured and, and has
4 some promise of moving things forward.

5 ARB DEPUTY EXECUTIVE OFFICER TERRY: I guess I see, I see
6 us being a lot closer on this, because what we have asked
7 for is, is volunteers from the, the same groups of people
8 listed here. The community, environmental health and
9 environmental justice organizations, health professionals,
10 industry reps, government reps. My point simply is that we
11 don't want to restrict membership. And, and because it's
12 not a, a voting situation, the, the relative numbers are not
13 that critical. We want the input, and we feel like we can
14 establish structure from a process standpoint and milestones
15 so that we can accomplish our goals. But we want to have a
16 little flexibility in terms of being able to allow people to
17 participate and not have a very formal structure.

18 Because these are very challenging areas here in
19 terms of the science, we learn a lot every step of the way.
20 And, and that has been our experience. And even when we
21 initiated our ARB environmental justice work group a few
22 years ago, we never had a rigid membership structure. But
23 what ultimately emerged was a core group of people very
24 committed, and with that model we ended up with policies
25 that were adopted by your board and we made a lot of

1 progress.

2 So we're simply suggesting move forward with the
3 model we've been using for several years, which is ask for
4 volunteers and expectation they'll be committed to the
5 process, and that will be, in essence, the core group that,
6 that serves that function.

7 CALEPA SECRETARY LLOYD: Yes.

8 OEHHA DIRECTOR DENTON: My only question, I
9 can see that on the advice and comment area, but what about
10 when you want to have formal proposals or you want an
11 evaluation of progress. How will you make decisions in that
12 group?

13 ARB DEPUTY EXECUTIVE OFFICER TERRY: Well, again, this is
14 an advisory function, so we've asked for a volunteer group
15 to serve as the LAG to provide us advice and comment. And
16 all I'm saying is, is that that membership may fluctuate a
17 little bit. Some folks may drop out if, if they're unable
18 to continue. New folks may come along along the way. But
19 in practice, what we've seen is a very committed group of
20 people going forward that has served that core function to
21 provide us advice and guidance along the way.

22 CALEPA SECRETARY LLOYD: What I'm hoping,
23 again, Lynn, I've got faith and you, you can work with the
24 community, you can work with Penny and Joe and come up with
25 the best model. It may be a hybrid model of what, what

1 you're talking about now, but again, I'd also make a plea
2 that, that with the community, we've got to put this stuff
3 behind us. The, the board's going to discuss the MOU on the
4 railroads, but let's get that behind us. We, we ought to
5 stop this rhetoric and, and blasting, and get to cleaning up
6 the air. That's the job we've got to do.

7 And, you know, I'm getting tired from the distance
8 of debating this. We, we're trying to clean up the air and
9 work all together on this, and it's a very very challenging
10 job. And I, I know we've got limited resources to do this.
11 So, but I have faith that you, that you can work this out
12 and work -- and again, I've got faith the community, that we
13 have to be working together, because this is a key issue.

14 We've got all these issues going ahead on the
15 ports and goods movement. I know the drain on staff there.
16 I'm involved with some of those. It's, it's incredible
17 drain. And I, I hear the community's desire and we've got
18 to get, get that pulled together. But it's, we, we have to
19 not lose sight of what we're trying to do here, and that is
20 not have -- we have to get meaningful meetings so we get
21 back on track of taking actions to clean up the air.

22 Penny.

23 MS. NEWMAN: I would just like to emphasize that
24 this really was the community's effort to try and reach out
25 to the staff and say we are willing to cooperate with this.

1 This is important to us, this is our families. We want to
2 make progress. We're not making progress the way we were
3 going, even before the MOU. So what we were offering is
4 here is a way we feel comfortable moving forward, that we
5 feel there's a commitment on the part of the part of the
6 agency to involve people in a meaningful process where
7 you've identified.

8 That doesn't mean that you can't have public
9 comment during a meeting, or exclude people. It just means
10 that you've identified volunteers to these positions who
11 will say I'm making a commitment, I'm with you on this,
12 we'll move forward. And to have it a balanced one, because
13 if you only have volunteers coming from one side and not
14 have representatives of the health professionals, of
15 industry, we're not going to get anywhere. It's fine for me
16 to say this is what I want in my community, but we've got
17 the railroad, we've got the distribution center. They have
18 to be at the table.

19 So that's what we were trying to accomplish. And
20 I hope that you take this sincerely. This is their offer,
21 what they're looking for. And when I go back they're going
22 to ask me, did they take it. Did they really, you know,
23 extend themselves and be willing to work with us. And if
24 you do, if you can adopt what the, what the CEJAC has, has
25 adopted and said this is great, then I think we can move

1 forward. And that's, this is, is really a test here. Are,
2 are we really interested in helping?

3 CALEPA SECRETARY LLOYD: Well, I, I don't
4 like putting it that way, Penny, as basically blackmail. I
5 don't respond well to --

6 MS. NEWMAN: It's not blackmail.

7 CALEPA SECRETARY LLOYD: It is.

8 MS. NEWMAN: It --

9 CALEPA SECRETARY LLOYD: The point is
10 this an offer. CJ is an advisory group, this environmental
11 work group.

12 MS. NEWMAN: I understand.

13 CALEPA SECRETARY LLOYD: We want to work
14 together the same way that -- I, I don't like threats. And
15 this is, this is a --

16 MS. NEWMAN: It's not a threat. What it --

17 CALEPA SECRETARY LLOYD: Well, you name
18 it whatever way --

19 MS. NEWMAN: -- what I'm trying -- Dr. Lloyd --

20 CALEPA SECRETARY LLOYD: -- way you want.
21 The point is I want to work together, and to say that the
22 ARB is not interested in cleaning up the air, to say that
23 this administration --

24 MS. NEWMAN: I did not say that.

25 CALEPA SECRETARY LLOYD: You said they're

1 making no progress.

2 MS. NEWMAN: The meeting --

3 CALEPA SECRETARY LLOYD: Our job is to
4 clean up the air.

5 MS. NEWMAN: The meetings have not been
6 progressing.

7 CALEPA SECRETARY LLOYD: Penny, the
8 idea --

9 (Parties speaking simultaneously.)

10 CALEPA SECRETARY LLOYD: Excuse me.
11 Excuse me. The job of the Air Resources Board is to clean
12 up the air. That is what they are doing every day. You've
13 got an administration that's committed \$150 million a year
14 to the -- program. We have clean fuels. We have heavy duty
15 standards. We have light duty standards. And to say we're
16 not making progress in these communities, we have an MOU,
17 whether you like it or not, which will lead us to faster
18 cleanup. Faster. We have health risk assessments at
19 railyards. And to say nothing's happening, I don't respond
20 well to that.

21 MS. NEWMAN: Dr. Lloyd, you've just --

22 CALEPA SECRETARY LLOYD: It's, it's
23 incorrect.

24 MS. NEWMAN: -- you misunderstood what I was
25 saying. I was not saying --

1 CALEPA SECRETARY LLOYD: Please clarify.

2 MS. NEWMAN: -- ARB, I did not say you aren't
3 interested in cleaning the air. I did not say --

4 CALEPA SECRETARY LLOYD: You said that
5 progress was --

6 MS. NEWMAN: -- you're not -- I --

7 CALEPA SECRETARY LLOYD: -- you said
8 progress was not being made.

9 MS. NEWMAN: I said, I, I was referring to the
10 meetings in the community, where we have not put together
11 what we're going to do, we have not outlined and
12 identified --

13 CALEPA SECRETARY LLOYD: Well, what is --

14 MS. NEWMAN: -- risk areas --

15 CALEPA SECRETARY LLOYD: -- what's the
16 intent of the meetings? Isn't it to clean up the air, to
17 address the concerns of the citizens, to improve the quality
18 of life?

19 MS. NEWMAN: It is to develop a pilot program --

20 CALEPA SECRETARY LLOYD: No, it's to
21 clean up the air.

22 MS. NEWMAN: It -- yes. But --

23 CALEPA SECRETARY LLOYD: That's right.

24 MS. NEWMAN: But if you're not making the progress
25 on developing these pilot programs, which is the overall

1 thing that takes in all of the departments, not just the air
2 board, if we're not making progress there, what we put
3 forward was a, a process that we felt could move that
4 process of the pilot programs along much better. We're not
5 talking about the entire goods movement. We're not talking
6 about the BT&H--

7 CALEPA SECRETARY LLOYD: But, but the --

8 MS. NEWMAN: -- process, any of that. What this
9 was only presented is to try and help these meetings in the
10 communities go better, that we develop the pilot programs
11 and implement them in a way that are really going to move us
12 forward. And we were trying to rebuild the relationship
13 that has been strained.

14 CALEPA SECRETARY LLOYD: But, but this
15 was the Air Resources Board thing. It wasn't a multi-media
16 study, was it, on this one? Multi-media. But I thought ARB
17 was taking the lead on this. Okay.

18 MS. NEWMAN: Absolutely. And that's what I'm
19 saying, is that, is that, that this was the community's
20 effort at trying to bring that relationship back together.
21 And it's not blackmail. I'm just trying to --

22 CALEPA SECRETARY LLOYD: Well, the way --

23 MS. NEWMAN: -- explain to you --

24 CALEPA SECRETARY LLOYD: -- the way you
25 characterized that --

1 MS. NEWMAN: No, I'm trying to -- if you, if you
2 will --

3 CALEPA SECRETARY LLOYD: -- is you either
4 take this or we walk away.

5 MS. NEWMAN: No. If you will let me now, let me
6 explain. When I go back to the community they're going to
7 want to know what did they do. Did they take our
8 suggestions. If this is supposed to be community driven,
9 then we need to start listening to the community. And
10 that's what we were trying to do. We were trying to help
11 ARB be more effective in our communities and dealing with
12 our residents. That's where we're at.

13 They're going to be looking at whether it gets
14 adopted or not. And, and that, you know, I'm just, I'm the
15 messenger. I'm trying to tell you that that is what's going
16 to happen. We are trying. We're offering that olive branch
17 to you, and I hope that you will take it. That's what I'm
18 saying.

19 CALEPA SECRETARY LLOYD: I don't
20 understand olive branch when we're all on the side of
21 cleaning up the environment in California. And the point is
22 CEJAC is an advisory group to the Environmental Working
23 Group. We have to make, from where we sit, the best
24 decisions based on all the inputs we get.

25 MS. NEWMAN: Exactly. And it was --

1 CALEPA SECRETARY LLOYD: So when you --

2 MS. NEWMAN: -- from your agencies that we
3 actually pulled these ideas, the CAGs, the community
4 advisory groups that, that DTSC has, and others, that we
5 pulled together this idea to try and help ARB be more
6 effective in these pilot programs with the community.

7 CALEPA SECRETARY LLOYD: But, but you --

8 MS. NEWMAN: That's all I was trying to express.

9 CALEPA SECRETARY LLOYD: -- but you
10 repeated your statement that when you go back and you, they
11 will ask you what was decided in the environmental working
12 group, and, and the implication being that if they didn't
13 take basically word for word what you recommended, then this
14 would be looked at as a negative way.

15 MS. NEWMAN: I think when somebody's offering an
16 olive branch to it and it gets --

17 CALEPA SECRETARY LLOYD: Well, I don't, I
18 don't agree with that.

19 MS. NEWMAN: -- broken off, or, you know --

20 CALEPA SECRETARY LLOYD: We get, we get
21 recommendations all the time. We get advisory groups all
22 the time. These are advisory groups. And the point is we
23 have to distill that information based on where we sit. If
24 we took --

25 MS. NEWMAN: I totally understand that. And

1 that's why I'm saying that we used models that you already
2 have within your agency to try and help effect a better
3 relationship here. We're not developing anything new.
4 We're not trying to come up with something that's going to
5 put them at, at a disadvantage in some way. We honestly,
6 we're trying to help. That's what we were trying to do.

7 CALEPA SECRETARY LLOYD: Well, but the --
8 yeah, I, I guess I take, as you see, I take exception to
9 some of the words. And I also -- talk about an olive
10 branch, because the olive branch, to me, we should all be,
11 all be trying to clean up the air, and no matter what
12 protocols we use, what regulations we use, what MOUs we use,
13 to, to cast aspersions that we don't want to clean up the
14 environment as fast as possible when we're committing
15 resources, we're committing millions of dollars. I, I have
16 to educate you if you're not aware of all the efforts going
17 on.

18 MS. NEWMAN: Oh, I understand that. And I'm not
19 questioning that. I think there are better ways of doing
20 some things than other things, and I think that that's open
21 for people to disagree on.

22 CALEPA SECRETARY LLOYD: Well, if you've
23 got a way that we can get to environment faster --

24 MS. NEWMAN: And that's part of what we were
25 proposing. We believe that our proposal will help ARB and

1 our communities get to implementing their pilot program more
2 effectively in an expeditious way.

3 CALEPA SECRETARY LLOYD: Okay.

4 WORKING GROUP ALTERNATE MEMBER DENTON: Chairman
5 Lloyd -- sorry, Dr. Lloyd --

6 CALEPA SECRETARY LLOYD: Anything will
7 work.

8 WORKING GROUP ALTERNATE MEMBER DENTON: I was just
9 thinking maybe, maybe actually, I think everybody's trying
10 to get to the same place, trying to get to an effective
11 feedback on the pilot program. And, and I'm thinking, Lynn,
12 that when you call for volunteers, these volunteers come
13 forward, I mean, won't you kind of look at the list anyway
14 and see whether or not you have, you know, people from
15 industry, I mean, health professionals -- I mean won't you
16 sort of be looking to assure that this, that the group that,
17 that has so willingly volunteered --

18 MS. NEWMAN: We will --

19 WORKING GROUP ALTERNATE MEMBER DENTON: -- is not,
20 is not under representing some other group. So, I mean,
21 there is going to be, you know, some of what Penny talked
22 about, isn't there?

23 ARB DEPUTY EXECUTIVE OFFICER TERRY: And, in fact, we
24 already have that group. I mean, the meeting we had at Mira
25 Loma, which was intended to be our LAG meeting but got

1 diverted on the railroad MOU, we had representatives from
2 all of the categories listed in this proposal. And so we,
3 in our mind, we have the LAG membership already prepared,
4 but we, we are not formalizing it because that would exclude
5 some people if we get -- for example, local government,
6 commerce is an example. We, we have two representatives
7 proposed. Well, ARB and the air district have to be there.
8 We also have local government. The city of Commerce are
9 essential players. So we now have three -- we don't want to
10 pick which three, which two agencies. Those three need to
11 be there. And in the case of multi-media, we may need to
12 bring DTSC in or the water board.

13 So we just view this very rigid proposal as not
14 the best approach. The fundamental concept is exactly where
15 we want to be. So, you know, my view is the report back to
16 the, the community group should be the spirit, the concept,
17 the process, has been embraced by ARB. We're simply saying
18 we want a little flexibility in how we go about operating
19 the LAG as we go forward.

20 CALEPA SECRETARY LLOYD; Well, and that,
21 that's what I was responding to, and maybe I was, I was, I
22 over-interpreted what Penny was saying, basically that, I, I
23 was saying, I'm afraid that you would take the best piece of
24 what the CEJAC was advising together with the rest of the,
25 the inter-agency working group, and, and move ahead in

1 conjunction with the community. When Penny basically said
2 well, this is the recommendation of CEJAC and unless you
3 take it, then we're out of it, that, maybe I over -- that's
4 why I reacted so negatively. So hopefully, we'll be able to
5 work it out.

6 ARB DEPUTY EXECUTIVE OFFICER TERRY: Well, Art, I have
7 that same interpretation, so I want to be sure that that is
8 not the message back, because we are in full support of this
9 concept.

10 CALEPA SECRETARY LLOYD: Yes.

11 MS. NEWMAN: Does that mean that if you're in
12 support of the concept that you would be in support of a
13 structured committee that might look different than the one
14 that was approved by CEJAC?

15 ARB DEPUTY EXECUTIVE OFFICER TERRY: What we're saying is
16 that we, we don't think it's appropriate to say we're going
17 to define a structure that has so many representatives and
18 limit them from the different sectors. But, you know, Dr.
19 Denton's point about making sure we have a lot of
20 constituencies represented is absolutely a goal. And that's
21 what we've had so far in the initial meetings. In each of
22 the areas we had every one of those sectors represented.
23 And if for some reason they didn't come forward when we go
24 to the next meeting, we'd call up and say can you please
25 continue to participate so that we do have that kind of

1 representation.

2 And it may well be that, from the community
3 standpoint, there are more than five people who really want,
4 who really want to be involved, and I would not want to have
5 to say no, it's so formal and rigid that you can't
6 participate.

7 MS. NEWMAN: Well, I mean, I think the CEJAC would
8 view that as, as very reasonable, if we were -- because you
9 could have all the sectors represented by a certain number
10 of people at one meeting, and then all the sectors
11 represented by a totally different number of people at
12 another meeting. So I think if there's a hybrid, as you
13 mentioned, Secretary Lloyd, then perhaps if you get all the
14 sectors represented and those folks have agreed to meet for
15 the next six months of a year, that you could then say so
16 now this is what it looks like. So it's an alternative
17 structure. Instead of two government representatives, it's
18 three. Instead of four community representatives, it's
19 five. It's whatever it is.

20 I mean, I just think that instead of having the
21 interpretation that you chose that the community was viewing
22 this as this or nothing, that if you could come back and say
23 yes, we think there should be consistency. We think that
24 these are the right sectors, but we think that these numbers
25 may be better, so we'll come back to you with something

1 else. My own view is that would be better received, and not
2 an either/or kind of thing. Just as a suggestion.

3 ARB DEPUTY EXECUTIVE OFFICER TERRY: One last comment is
4 my concern is excluding people who want to participate, and
5 so that's why I, I resist picking arbitrary numbers and
6 saying you have to have this many numbers from these
7 particular sectors.

8 MS. NEWMAN: I wasn't suggesting arbitrary. I was
9 saying that you sound like you have some information that
10 you think would inform a wise decision, but that you then
11 say there's consistency. Because none of us want to show up
12 at a meeting that changes every time. So that you can move
13 forward and make progress.

14 ARB DEPUTY EXECUTIVE OFFICER TERRY: Or perhaps, maybe
15 we're just missing the obvious, that we're calling for
16 volunteers. We will put together a list. Everybody, in my
17 view, who volunteers, is on the committee, and we have a
18 roster and we go forward. And that is our, our committee.
19 We just, I'm just saying I don't want to say you can't be on
20 it because that slot's filled.

21 CALEPA SECRETARY LLOYD: I think we're, I
22 think we're probably making this, this harder, and I think
23 probably Lynn and Penny and, and you, Diane, are far closer
24 than we think we are on, on this issue. So maybe let's,
25 let's move ahead, and -- and I guess the other part is that

1 Lynn clearly has had the benefit of going out there now and
2 knowing some of this, and seeing the different groups.

3 Paul, you were going to say something.

4 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: You're moving on,
5 so that's, that's good, I think. We're hearing the same
6 thing, that I think we need to let ARB kind of work with the
7 groups, find the right path with that. Now, obviously, if
8 it, if it doesn't work out, they're going to hear about it.
9 So I think as they work locally it's going to find their own
10 dynamics and flavor and, and work through it, and they know
11 how to do that.

12 CALEPA SECRETARY LLOYD: Well, I think if
13 they work also with, with the new Co-Chairs of CEJAC, Joe,
14 so you're not out of it yet. So that will be, that will be
15 helpful.

16 CAL/EPA DEPUTY SECRETARY DR. PRASAD: So that means this
17 item will come back, they will bring it back with whatever
18 you work out with the community as a final option to the --
19 or should we act on --

20 ARB DEPUTY EXECUTIVE OFFICER TERRY: Well, I think we need
21 to act on it.

22 CAL/EPA DEPUTY SECRETARY DR. PRASAD: -- like CEJAC has
23 made a recommendation, so this committee has to act on on it
24 or give a direction, so I --

25 CALEPA SECRETARY LLOYD: I don't think, I

1 don't think we want to come back. I think we need to give
2 direction to, to Lynn, and I would also say the co-chairs
3 there, to, to work this out, and hopefully to, to work it
4 out to, to that satisfaction, and then let us know.

5 ARB DEPUTY EXECUTIVE OFFICER TERRY: I'll report back.

6 CALEPA SECRETARY LLOYD: Yeah. You know,
7 report back, I mean, say in the, the next few weeks or next
8 month. So, rather than wait for a formal structure report
9 back so we are aware of that.

10 I guess we need a motion.

11 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Move that ARB go
12 work with -- develop a local advisory committee and report
13 back to the IWG at our next meeting.

14 OEHHA DIRECTOR DENTON: I second.

15 CALEPA SECRETARY LLOYD: And again, I
16 think linking, linking back also with the, with the CEJAC,
17 too. Did you get that last part, Paul?

18 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: No.

19 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Work with the CEJAC
20 Co-Chairs. And the community representatives.

21 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Yes.

22 CALEPA SECRETARY LLOYD: So all in favor,
23 say aye.

24 (Ayes.)

25 CALEPA SECRETARY LLOYD: Aye.

1 Anybody against? No.

2 Thank you. Thanks, Lynn.

3 Okay. Now we can go to --

4 CAL/EPA DEPUTY SECRETARY DR. PRASAD: You all have the EJ
5 Pilot Project -- we all of now, all of us know that most of
6 them are delayed by a few months and various reasons. We
7 are all familiar with it. Unless there are any other
8 specific questions, I think actually we can move on to the
9 next agenda item. That will be the enforcement initiative,
10 and Don Johnson is here to provide the update on what's
11 happening on that aspect.

12 CALEPA ASSISTANT SECRETARY JOHNSON: Good afternoon. I'm Don
Johnson,

13 I'm the Assistant Secretary for Local Programs. I work
14 within the Environmental Enforcement Branch within the
15 Office of the Secretary. Maureen Gorsen has asked me to go
16 ahead and give you an overview of the enforcement initiative
17 today.

18 One of, one of the governor's action items,
19 environmental action items, was to improve and create
20 stricter enforcement of environmental laws. And to that
21 end, Cal/EPA has initiated a review of environmental
22 enforcement within all of its board's departments and
23 offices and local program partners, and as a result of that
24 review, came to the conclusion that there were several areas
25 where we could begin to do some work and focus some

1 attention on that would result in improved regulatory
2 programs and improved enforcement.

3 The, the resulting effort, or the, the review
4 resulted in the development of basically nine, what I call
5 quality improvement teams, that are now working within
6 Cal/EPA and are made up of representatives of each of the
7 boards and departments, and in some cases local government
8 individuals, as they examine these issues. And I'll just
9 briefly go through where those nine are, and they've been
10 meeting now for probably, or have been forming and meeting
11 for about six months.

12 One is on environmental data standardization. We
13 call that the data dictionary. Another one is on
14 environmental enforcement communications. We have a group
15 on enforceable permits. We have one on how to improve
16 enforcement processes in investigations called enforcement
17 intelligence. One on the development of an overall
18 enforcement program operations plan. One regarding
19 geographical information services and how to improve that
20 for the purposes of enforcement. One on training of our
21 professional staff to assure standardization, and another
22 one on tracking of complaints.

23 And without going into detail, I mean, there's,
24 they're moving along. I think that the results of these
25 nine will come out with in some cases active programs or

1 policies that will standardize across Cal/EPA the
2 information sets that we use in our permitting and
3 enforcement process so we have better information systems
4 and we're better able to link and coordinate our information
5 systems. We'll end up with improved cross media complaint
6 tracking and ability for the public to access and, and
7 provide complaint tracking, and then ultimately end up with
8 better resources not only that the public can access, that
9 we can use to, to identify who's in compliance and who's not
10 in compliance within the state, so it'll open the process up
11 considerably.

12 We're probably midway through our process right
13 now. There's still quite a bit of work to do. And then
14 there's always the issue of, of funding and, and how we
15 actually proceed to implement some of these activities. So
16 unless you would like, you know, more detail on each, each
17 one of these, I can take questions now or I can, I can
18 expand.

19 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Questions. Maria
20 and I had -- had talked about was that every meeting you
21 will be providing the basic data in terms of what's
22 happening and what are the things, so it just becomes kind
23 of an update. And also it gives an opportunity for the
24 public to be aware of what is happening on this issue, as
25 well.

1 CALEPA ASSISTANT SECRETARY JOHNSON: Okay. And I won't, I'll
2 stay here because I might be responding.

3 MR. LYOU: The first is unclear to me whether the
4 tracking of complaints or the process part was going to
5 involve the creation of an agency-wide complaint resolution
6 protocol. Was that under consideration?

7 CALEPA ASSISTANT SECRETARY JOHNSON: I'm not sure what you mean
8 by an agency-wide complaint resolution.

9 MR. LYOU: Well --

10 CALEPA ASSISTANT SECRETARY JOHNSON: Let me, let me explain what
11 we're doing and see if it meets the needs that you're talking about.

12

13 MR. LYOU: Okay.

14 CALEPA ASSISTANT SECRETARY JOHNSON: Currently, each of the
15 boards and departments and local government have a different process
16 for receiving complaints, and there is limited amount of
17 interaction or coordination on how those complaints are
18 either disseminated or acted upon. And what we're looking
19 at is sort of standardizing the process so that we have both
20 a standard through the phone or through the internet, a way
21 for the community to, to make a complaint and make sure that
22 all of the regulatory agencies that may have a
23 responsibility have an opportunity to review that.

24 So there, there would be a distribution process.
25 And then once it's identified, who the primary investigating

1 agency would be. Then it would be routed to them with the,
2 with the idea that, that the other groups would participate
3 as necessary and would be tracked as to the outcome of that,
4 what the complaint investigation was.

5 MR. LYOU: And --

6 WORKING GROUP MEMBER HANSON: Hey, Joe. Joe, just
7 for the record, would you state your name and phone, because
8 it's been a while since you spoke.

9 MR. LYOU: Sure. Joe Lyou, California
10 Environmental Rights Alliance and Co-Chair of the Advisory
11 Committee on Environmental Justice.

12 The, what you just described included a process
13 for how the complaints would be responded to and resolved?

14 CALEPA ASSISTANT SECRETARY JOHNSON: That's correct.

15 MR. LYOU: Okay. I'm mentioning it because in the
16 recommendations that the advisory committee put forward in
17 2003 included a request to establish complaint resolution
18 protocol at Cal/EPA. And we have worked on this issue with
19 ARB and the local air districts, which was an interesting
20 discussion because it really wasn't about the business
21 stakeholders or the environmental stakeholders, it was
22 really a conversation between ARB and the local districts on
23 how best to come up with ways to resolve complaints and
24 track them. So there is a complaint resolution protocol
25 that ARB produced and that the California Air Pollution

1 Control Officers Association endorsed and, and agreed to.

2 The second thing was something that I have
3 actually mentioned to Maureen Garson and I would, I would
4 like to make sure that the other boards, departments and
5 officers within Cal/EPA are aware of, is that there is an
6 issue with regard to public notice and opportunity to
7 comment on settlements, in terms of enforcement issues, and
8 the use of any funding or enforcement money or, or
9 supplemental environmental project funds that come in. I
10 think that the, many communities feel that they have not had
11 an adequate opportunity to know about settlements when
12 they're, when they are about to happen. I know this
13 happened recently in, in East Palo Alto with the Romic
14 facility, and it has happened elsewhere.

15 And secondly, that, that the communities feel that
16 if there are violations going on in their, in their
17 neighborhoods, that they should benefit from the use of, of,
18 or to some extent, from, from the use of, of enforcement
19 money, violation funds or settlement money that comes in.

20 So in order to do that, I think that they, the
21 public should have an opportunity to comment on and be
22 notified of these, the existence of these things prior to
23 them being finalized.

24 CALEPA ASSISTANT SECRETARY JOHNSON: Okay. I'll take that, I'll
25 take that information back.

1 MR. LYOU: Thank you.

2 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Kind of on your
3 first point on the complaint resolution process that ARB and
4 CAPCOA put together. We have taken a look at that in terms
5 of -- because I think each of us have different authorities
6 and different statutes we have to enforce, but they went
7 through a, a fairly, I think, logical process of looking at
8 what each of the districts have been doing and trying to
9 come up with sort of a standard set and sort of under ARB's
10 statute, which I think made a lot of sense to us and
11 something we were looking at. And is that sort of at least
12 the methodology that ARB and CAPCOA went through, at least
13 as a starting point for each of the BDOs?

14 MR. LYOU: Well, I think everyone has different
15 situations. Yours may be somewhat similar because you have,
16 deal with county ag commissioners, you deal with large
17 counties and small counties, so that's very similar to what
18 the air district confronted with large local districts and
19 small local district, so I think that might be applicable.
20 I think if, if we took a fresh look at, at what we did at
21 ARB and thought about it in terms of what we would want
22 agency-wide, we might, you know, it might be a little
23 different in, in terms of being more comprehensive. But
24 there was a direct need, and ARB was hearing this quite
25 consistently when, when they were holding meetings

1 throughout the state, from different communities who were
2 frustrated with the lack of responsiveness both at the local
3 district and at ARB and not, and not having a clear
4 structure for when should a complaint go to ARB and then
5 what does ARB do with it.

6 CALEPA ASSISTANT SECRETARY JOHNSON: And the Air Resources Board
7 is part of this, and I'll take that back to that committee and ask
8 them to take a look at that document.

9 MR. LYOU: Thank you.

10 CALEPA ASSISTANT SECRETARY JOHNSON: Okay. Okay. Any other
11 questions or --

12 MR. LYOU: Thank you, Don.

13 CALEPA ASSISTANT SECRETARY JOHNSON: Okay, thank you.

14 CALEPA SECRETARY LLOYD: I missed that,
15 Don. Could you repeat the --

16 (Laughter.)

17 CALEPA SECRETARY LLOYD: It wasn't
18 intentional, by the way.

19 CAL/EPA DEPUTY SECRETARY DR. PRASAD: There's, there's an
20 item that actually when during the presentation Dr. Lyou
21 brought up today was the issue of funding and public
22 participation aspect. We don't have any specific
23 recommendation, but what I would suggest is sort of -- I
24 work with a couple of CEJAC members and explore the options
25 and come back to you with some suggestions that could be put

1 on the table for consideration.

2 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: I had a question
3 about in terms of reimbursing our LAG members and others for
4 travel per diem. Is that a standard practice that folks use
5 or don't use, and --

6 CAL/EPA DEPUTY SECRETARY DR. PRASAD: For example, on
7 CEJAC, there are -- it did not clearly says that we can
8 reimburse for some members. And even on the stakeholder
9 process at ARB when we had those representing small groups
10 who did not, they are not from a lobbying group or anything
11 like that, we did provide them for the travel and per diem,
12 but not for the time.

13 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Right. And that's
14 what we're doing, also. At least as sort of a minimum
15 standard set for Cal/EPA that, you know, if we haven't been
16 doing it but making sure that if everyone is paying for
17 travel, you know, and, and those travel expenses, at least,
18 consistently across the board would make sense.

19 CAL/EPA DEPUTY SECRETARY DR. PRASAD: Thanks.

20 WORKING GROUP MEMBER HANSON: I would just
21 recommend that you run that through Maureen Gorson and make
22 sure she's aware of the issue and the proposal and
23 everything.

24 (Inaudible asides.)

25 CALEPA SECRETARY LLOYD: Oh, okay. So

1 the issue -- how much money do we need? How much, Joe, do
2 you have any feeling of how much money you're talking about?

3 MR. LYOU: In, in some ways it's actually not a
4 question of, of just throwing money at the problem.

5 CALEPA SECRETARY LLOYD: No, no, no. No,
6 no. But the point is I'm talking about for some of the
7 travel issues, those are the issues I'm talking about.

8 MR. LYOU: Oh.

9 CALEPA SECRETARY LLOYD: I thought that's
10 what you were focusing on here.

11 MR. LYOU: Yeah.

12 CALEPA SECRETARY LLOYD: I know that
13 becomes a real problem when people --

14 MR. LYOU: It, well, it, it is a problem and you
15 know as well as I do that, that this committee and our
16 advisory group hasn't met outside of Sacramento for more
17 than two years. And so we will be actually meeting in
18 Diamond Bar on, on the 15th. But part of the problem is,
19 you know, when we meet in Sacramento, is getting people from
20 other parts of the state here. And I think that the small
21 grants program will help to some extent. But I think you
22 will also find, and it's my understanding from talking to
23 Dr. Prasad, that, that he received 50 applications. And so
24 if you have --

25 CALEPA SECRETARY LLOYD: How much money

1 do you have in the small grants program?

2 CAL/EPA DEPUTY SECRETARY DR. PRASAD: \$250,000, 20,000
3 maximum.

4 MR. LYOU: Yeah. So if you multiply 20,000 by 50,
5 you get a closer idea of what the, I mean, what a little bit
6 of the need is, at least for the people who knew about the
7 small grants program. And I'm sure if, if they were asked
8 how much do you really need, the number would be much, much
9 higher.

10 CALEPA SECRETARY LLOYD: Who's putting up
11 that money?

12 CAL/EPA DEPUTY SECRETARY DR. PRASAD: 250,000 is given by
13 DTSC.

14 DTSC ACTING DIRECTOR ROBINSON: We challenge other
15 BDOs to match.

16 (Laughter.)

17 CAL/EPA DEPUTY SECRETARY DR. PRASAD: There's an offer on
18 the table. Take it.

19 CALEPA SECRETARY LLOYD: Well, do the
20 thing, Joe. And again, I've asked Lynn here, you know --
21 just getting my own back at, at Paul here.

22 No. Why couldn't we also go to CAPCOA and ask
23 them if they could, could help here.

24 MR. LYOU: I'm not familiar with the other
25 districts, but I know that South Coast is running a deficit.

1 CALEPA SECRETARY LLOYD: I can't believe
2 that all the money they've got, I don't, if they're running
3 a deficit then we're bankrupt.

4 MR. LYOU: They've been running a deficit for a
5 couple of years. You know. They do have a reserve, but
6 they're running a deficit.

7 CALEPA SECRETARY LLOYD: Well, they have
8 \$30 million from BP, and they've used it all?

9 MR. LYOU: Yeah. Well, that's right. That --
10 well, yeah. That changed things for them. But going into
11 the year prior to that, and as they say, they don't want to
12 rely upon one-time funding in order to balance their budget.
13 I mean, they, they're talking about running up a deficit.

14 ARB DEPUTY EXECUTIVE OFFICER TERRY: But, Dr. Lloyd, I
15 think we certainly could broach a couple of the major
16 districts for a scholarship program.

17 CALEPA SECRETARY LLOYD: Yeah.

18 MR. LYOU: And I, and I think that another
19 consideration to be creative is, is to go private funders,
20 not only the foundations, and to tell them about how
21 important this work is, how important this is for, for
22 environmental justice, how important this is for public
23 health, but go to individuals and others and, and just
24 educate them about the need to support community
25 participation and, and these processes. That way, we avoid

1 some of those potential problems with conflicts and, and
2 perception issues of, of conflicts.

3 CALEPA SECRETARY LLOYD: I think, I think
4 we'd like to work with you, what I'm saying is. I'm
5 delighted that DTSC and the other BDOs can do it, but also
6 the CAPCOA. And the other part, Joe, I don't think you were
7 there yesterday at the climate change meeting, but, you
8 know, we now have a Hewlett Fellow on the, on the climate
9 change, who's back there.

10 So, you're on, on EJ, as well? Yeah. So covers
11 everything for us. Again --

12 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Very high
13 expectations for him.

14 CALEPA SECRETARY LLOYD: And that's
15 another example. As you know, when we, when we followed up
16 with Teresa, and so we've been fortunate. So that's an
17 example where the foundation can come through, and that can
18 be very very helpful.

19 MR. LYOU: Right. I think at some point people
20 should know about what those, those small grant applications
21 look like, in terms of getting a real idea of the financial
22 needs that are out there from the various organizations
23 throughout the state.

24 DPR CHIEF DEPUTY DIRECTOR GOSSELIN: Good suggestion.
25 We're getting towards the end, talking about the next

1 meeting, that that's something that we've kind of put on our
2 agenda for the next meeting on what we're going to do for
3 the small grants program, and some response to this capacity
4 building issue. And rather than relying on the availability
5 of one-time funds, if we can collectively internally talk
6 about what we can do for maybe the long haul consistent
7 funding for the, for the small grants program, and even
8 explore private/public foundation partnerships, we can have,
9 you know, for capacity building, and put that on the agenda
10 for the next meeting.

11 CALEPA SECRETARY LLOYD: Good, good
12 suggestion. So do we have a date for the next -- okay, it's
13 about three months.

14 MR. LYOU: If I could, I would add just one other
15 thing, that, that is, is related to this problem, and that
16 is the amount of work involved. And some of that I think we
17 can perhaps reduce the workload. When we talked about
18 public participation we talked about regional approaches to
19 public participation, so that agencies are coordinating
20 their meetings and, and work so you're not having three
21 meetings in three different places on the same night in Los
22 Angeles about, you know, railroad MOUs and, and contaminated
23 sites, and, you know, some other, you know, regional board
24 cleanup facility, or something, all at the same time.

25 If, one of the things we need to consider doing

1 is, is making the whole thing a little more, well, better
2 coordinated and, and less demanding upon the community so
3 that they're, they're participating in the most effective
4 things on a regular basis and also in the most efficient
5 way.

6 CALEPA SECRETARY LLOYD: That's assuming
7 that all the BDOs here are fully coordinated. It's a good
8 assumption, a good assumption.

9 That's a good comment, I think, so we'll I guess
10 pick a date, and keep -- any other comments from the public?
11 If there's any left. No.

12 Thank you all very much, appreciate it. And thank
13 you, thank you, Joe, and thank Barbara for when she comes,
14 and we're actually finishing -- well, I guess we gained some
15 at lunch, so we're finishing on time. So thank you all very
16 much. And I, it was a very productive meeting, actually.
17 So I'm delighted. Thank you. Thanks, Shankar, thank you
18 for your staff.

19 (Thereupon, the meeting of the Cal/EPA
20 Interagency Working Group on Environmental
21 Justice was adjourned at 2:49 p.m.)
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CERTIFICATE OF REPORTER

I, CHRIS LOVERRO, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Environmental Protection Agency Interagency Working Group Meeting; that thereafter the recording was transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of November, 2005.

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